

CHAPTER 4: THE IRAQI DECEASED

1. The order to collect the bodies of the dead insurgents

2.1745 1 Mechanised Brigade (hereafter “Brigade”), the Brigade responsible for the provinces of Maysan and Basra, was commanded by Brigadier Andrew Kennett. Brigadier Kennett was supported by a team that included his Chief of Staff (“COS”), Major Jonathan Biggart, the Deputy Chief of Staff (“DCOS”), Major Simon Hutchings and the Operations Officer, Captain Neal Croft. Together, they were responsible to the General Officer commanding the Multi-National Division (South East) (hereafter “Division”), who in May 2004 was Major General Andrew Stewart. In May 2004, Brigade headquarters were located in Basra Palace.

2.1746 As the Brigade Commander, Brigadier Kennett had operational control over the entire Brigade, a task which was then delegated to the various commanders down the chain of command within the four Battle Groups that made up the Brigade. One of those Battle Groups was 1PWRR, of which Major Richard Toby Walch was the Chief of Staff and Lieutenant Colonel Matthew Maer was the Commanding Officer. It was in 1PWRR’s area of operations that the Battle of Danny Boy took place on 14 May 2004.

2.1747 As explained by Brigadier Kennett, the various commanders below him in the chain of command were afforded a large degree of discretion in how they carried out their delegated tasks,²²⁹⁶ a style of command known as “mission command.” Stated in general terms, the underlying principle of “mission command” is that the senior officer makes plain his overall objectives and intentions and then leaves it to those lower in the chain of command to interpret and carry them out in the most appropriate manner in the prevailing circumstances. Thus, the senior officer makes his intent clear, but does not specify precisely how that intent is to be carried out on the ground.²²⁹⁷

The Battle of Danny Boy and the genesis of the order/instruction from Brigade that the dead insurgents were to be identified

2.1748 During the afternoon of 14 May 2004, Major Biggart was informed by Captain Croft that a battle was taking place near the Danny Boy VCP.²²⁹⁸ In his written Inquiry statement, Captain Croft recalled that he had obtained that information from the radio communications that were coming into the Brigade operations room at the time.²²⁹⁹

2.1749 Having heard about the battle from Captain Croft, Brigadier Kennett then spoke to Major Allan Costley, who was the Brigade’s Senior Intelligence Officer. Major Costley suggested that those who were behind this particular attack on British troops could well be the same as those who had been involved in the murder of six Royal Military Police in Majar al’Kabir in June 2003.²³⁰⁰ As Major Walch explained, the investigation into the deaths of the 6 RMP soldiers was a high priority for Brigade at the time. It was also a matter that had been raised at the highest levels within the UK Government. There was therefore an urgent desire to have “*some sort of resolution and due process*”²³⁰¹ and Brigadier Kennett had been given the task of apprehending those who were suspected of being responsible for the murder of the

²²⁹⁶ Brigadier Kennett (ASI024019) [17]

²²⁹⁷ See also Volume II, Part VII, Chapter 1, Report of the Baha Mousa Inquiry

²²⁹⁸ Major Biggart (ASI022962) [23]

²²⁹⁹ Captain Croft (ASI025034) [17]

²³⁰⁰ Major Costley (ASI022718) [21]; Brigadier Kennett (ASI024026) [36]

²³⁰¹ Major Walch [143/138]

six Royal Military Policemen.²³⁰² One of the suspects believed to have been involved in their murder was Naseer Zachra Abd Rufeiq, known to the military witnesses by the code name “Bravo 1.”²³⁰³ On 14 May 2004, it was thought that Bravo 1 might have been involved in the battle at the Danny Boy VCP. It was therefore considered to be very important to establish whether Bravo 1 was, in fact, amongst the insurgents who had been killed in the course of that battle.²³⁰⁴

2.1750 According to Major Biggart, it was Major Costley who had raised the possibility that, given the location of the battle (i.e. the Danny Boy VCP, which was very close to Major al’Kabir), there might be a link between those who were involved in the attack on the British forces that day and those who had been responsible for the murder of the six Royal Military Policemen in Major al’Kabir in 2003. Major Biggart described how the issue arose at the time, as follows:

“I recall that it was suggested by Major Costley that there might be a link between those involved in the contact and those responsible for the murders of the RMP in 2003, given proximity to MAK [i.e. Major al’Kabir] and the audacious nature of the insurgents’ actions.”²³⁰⁵

2.1751 Although Major Costley did not remember having specifically raised the issue, he accepted that there had been a conversation in which it was suggested that those who were involved in the organisation and execution of the current attack on British troops at the Danny Boy VCP might also be connected to the murder of the six Royal Military Policemen in 2003. He went on to confirm that information about the identity of any of the Iraqi dead would have been of interest to British Intelligence in any event.²³⁰⁶

2.1752 According to Major Biggart, as the discussion about the matter had developed it was suggested that the Battle Group involved should be given the task of photographing any insurgents killed in the battle, so that they could then be identified.²³⁰⁷ Major Biggart recalled that the focus of the conversation was upon the need to identify the dead insurgents and that the taking of photographs had thus become part of that discussion. In his oral evidence to the Inquiry, Major Biggart described how the conversation developed, as follows:

“He [Brigadier Kennett] did not specifically say to me “Go and get photographs of them.” He said “I support the idea of getting photographs.” I then said, “let’s get photographs.” I think that is a sort of good way of summarising it.”²³⁰⁸

2.1753 Broadly speaking, Major Biggart’s recollection accorded with that of Brigadier Kennett, who remembered how the suggestion of taking photographs, as a means of identifying the dead insurgents, had been raised during the conversation.²³⁰⁹ In his oral evidence to the Inquiry, Brigadier Kennett said that it was his recollection that this conversation had taken place outside the building, in an area near where the helicopters landed.²³¹⁰ He also confirmed that, so far as he could recall, this was the only conversation that he had been involved in that day, which was concerned with the bodies of the insurgents who had been killed in the battle. Brigadier Kennett accepted that he had “endorsed” the general idea of seeking to identify

²³⁰² Brigadier Kennett (ASI024023) [27]

²³⁰³ See e.g. Major Coote (ASI018643) [17]

²³⁰⁴ See e.g. Capt Rands [110/33].

²³⁰⁵ Major Biggart (ASI022962) [25]

²³⁰⁶ Major Costley (ASI022717) [17]

²³⁰⁷ Major Biggart (ASI022963) [28]

²³⁰⁸ Major Biggart [121/20]

²³⁰⁹ Brigadier Kennett (ASI024026) [37]

²³¹⁰ Brigadier Kennett [121/109-110]

the dead insurgents.²³¹¹ In his view, the order or instruction from Brigade to the Battle Group that then followed had been the result of his agreement in principle, during the course of the conversation in question, to the suggestion that attempts should be made to identify the dead, but without it having been specified precisely how that was to be achieved.²³¹²

Distribution of the order/instruction to identify the dead insurgents

2.1754 For his part, Major Biggart was clear in his recollection that he had then spoken to the Brigade operations room (probably to Captain Croft), so that the instruction to identify the dead was passed on to the Battle Group involved in the battle (i.e. 1PWRR).²³¹³ In his written Inquiry statement, Major Biggart described what happened in the following terms:

*"I went to the area of the Ops Room and recall that I spoke to the Bde Comd. I think Capt Croft was there, and possibly Maj Costley, although I cannot be sure. I informed Bde Comd of the proposal to task the Battle Group with obtaining photographs of the insurgents. So far as I remember we did not discuss where the bodies would be photographed, and I assumed that they would be photographed where they lay on the battlefield."*²³¹⁴

2.1755 Major Biggart thought it most likely that the instruction had then been passed on to the 1PWRR Battle Group by Captain Croft,²³¹⁵ although he accepted that the task might have been delegated to one of the Brigade operations room watchkeepers. According to Major Biggart, the instruction would have been passed to the 1PWRR Battle Group by direct communication with the 1PWRR's operations room at Camp Abu Naji.²³¹⁶

2.1756 In his written Inquiry statement, Major Biggart said that he had been quite clear in his own mind what the task was: it was to obtain photographs of the insurgents for the purpose of identification.²³¹⁷ During his oral evidence to the Inquiry, Major Biggart said that he believed that the substance of the instruction that he gave to Captain Croft, for onward transmission to the 1PWRR Battle Group, was that the dead insurgents were to be identified and that he had accompanied that instruction with a suggestion that the best way of achieving that objective would probably be to photograph them. What he said was this:

*"I'm pretty sure the instruction was to identify them. Photographs would be probably the best way to do it."*²³¹⁸

2.1757 I am therefore satisfied that the original order or instruction from Brigade to 1PWRR Battle Group was that the dead insurgents were to be identified (hereafter "the original order"). It is very likely that the original order included a direction or suggestion that this could be best achieved by photographing the bodies in question. However, I am also satisfied that the original order did not include any specific instructions as to where or with what equipment the photographs were to be taken. In particular, the place where the photographs were to be taken was not specified at all.²³¹⁹

²³¹¹ Brigadier Kennett (ASI024026) [39]

²³¹² Brigadier Kennett (MOD020809) [5]; [121/102-103]

²³¹³ Major Biggart (ASI022963) [28]

²³¹⁴ Ibid

²³¹⁵ Major Biggart [121/22-23]

²³¹⁶ Major Biggart [121/23-24], (ASI022964) [32]; Captain Croft (ASI025033) [14]

²³¹⁷ Major Biggart (ASI022964) [30]

²³¹⁸ Major Biggart [121/21-23]

²³¹⁹ See e.g. Major Biggart (ASI022963) [28]

- 2.1758** Unfortunately, none of the logs maintained by Brigade or by the 1PWRR Battle Group have any record that the original order or instruction to identify/photograph the dead was actually passed on to the 1PWRR Battle Group at Camp Abu Naji. There is therefore no contemporaneous written record of the terms of the original order. Nevertheless, I have no doubt that such an order was passed from Brigade to the Battle Group during the late afternoon of 14 May 2004 and that the circumstances and general terms of the order were as described by Brigadier Kennett and Major Biggart, both of whom were impressive and truthful witnesses. It is very likely that the absence of any written record of the original order in any of the logs was due to the very serious and complex nature of the overall situation and the fast pace at which events were unfolding. Although very unfortunate, it is perhaps not altogether surprising that, in such circumstances, the need to make a record of the original order in one or other of the logs was overlooked.
- 2.1759** Whilst it was the recollection of both Brigadier Kennett and Major Biggart that the original order given by Brigade was for the dead to be identified, the recollection of those in the operations room at Camp Abu Naji was of a specific order from Brigade that the bodies of the dead insurgents were to be collected from the battlefield. According to Captain Curry, the operations officer for 1PWRR at the time, he had received an order from Major Biggart at Brigade that was a specific instruction to collect the dead from the battlefield.²³²⁰ For his part, Major Walch also remembered having received the same order.²³²¹ For reasons that will become apparent in the paragraphs that follow, I am satisfied that this particular form of the instruction or order from Brigade was actually subsequent in time to the original order.
- 2.1760** During his oral evidence to the Inquiry, Major Walch said that he was sure that he had received a clear and direct order to collect the dead from the battlefield. According to Major Walsh, the order had originated from the Brigade Commander (i.e. Brigadier Kennett) and had been transmitted to him by Major Biggart, who had spoken to him directly over the telephone in order to do so.²³²² Although I think that it is more likely that Major Walch and Captain Curry actually spoke to Captain Croft at Brigade, rather than to Major Biggart, I accept their evidence about the general nature and content of this particular conversation and the instruction that was given during it. It is also very likely that Captain Curry's recollection of the terms of Brigade's order or instruction was the same as that of Major Walch because the telephone conversation with Brigade, during which that particular order/instruction was given, had probably commenced with him. Thus, Captain Curry remembered having been given an order to collect the dead by Brigade over the telephone²³²³ and Major Walch recalled how he had been given the order once Captain Curry had passed the telephone to him, after he (Captain Curry) had been speaking to Brigade first.²³²⁴
- 2.1761** As I have already indicated, I also accept Major Walch's evidence that the instruction he received from Brigade was for the dead bodies to be collected from the battlefield.²³²⁵ It therefore seems to me that, in the period between the transmission of Brigade's original order to 1PWRR Operations Room (that the dead were to be identified) and the instruction to collect the dead that Major Walch received somewhat later, there had been some further discussion about how and where the original order was to be implemented. I do not believe that the mutation of the original order, from being one requiring the identification of the dead bodies to being one requiring the collection of the dead bodies from the battlefield, was

²³²⁰ Captain Curry (ASI016788) [39] (d)

²³²¹ Major Walch (ASI021671) [76]

²³²² Major Walch [143/ 69-70]

²³²³ Captain Curry (ASI016789) [39(d)]

²³²⁴ Major Walch (ASI021671) [76]

²³²⁵ Major Walch (ASI021671) [77]

actually due to any misunderstanding or miscommunication between Brigade and the Battle Group. Rather, it was the result of a process of working out how best to achieve the objective of the original order in the circumstances then prevailing on the ground.

2.1762 As it seems to me, it is very likely that, at some point very shortly after the original order had been given by Brigade, the impracticality and danger of identifying the dead, by photographing their bodies on the battlefield, was realised by those responsible for carrying out the order on the ground. This initiated a discussion, between the operations room at Camp Abu Naji and the 1PWRR soldiers on the ground, about how best to carry out the task of identifying the dead insurgents. I am unable to say precisely what communications took place between them or to name all those involved in this discussion, but it seems clear that, at a very early stage, active consideration was given to the collection of the bodies from the battlefield, in order that they could be photographed and identified in safety at Camp Abu Naji, as opposed to the very difficult and hazardous task of trying to accomplish this on the battlefield.

2.1763 Thus, in both his written Inquiry statement and in his oral evidence to the Inquiry, Corporal Jokatama Tagica, who commanded one of the Warrior AIFVs at the scene of the Northern Battle (W21), recalled that there had been a great deal of debate over the radio network, as to whether the dead bodies should be left on the battlefield or taken back to Camp Abu Naji.²³²⁶ In his written Inquiry statement, Corporal Tagica described what happened in the following terms:

"I cannot remember who gave the order to bring the enemy dead back to CAN. I remember there was a lot of traffic on the radio about this issue. There was some debate initially – we were first told to leave them, then to collect them – but ultimately the direction came through to collect them..."

...The order was unusual as normally you would leave the enemy dead on the battlefield. The explanation given, however, was that they were needed for identification purposes, and I accepted this."²³²⁷

2.1764 The fact that there were detailed discussions between the operations room at Camp Abu Naji and the soldiers on the ground, about how best to implement the original order to identify the bodies of the dead insurgents, is further demonstrated by the recollection of Brigade Command about how matters had then proceeded. As detailed in the paragraphs that follow, according to Brigade Command they had received a message from 1PWRR, shortly after the original order had been passed to the Battle Group, in which permission was requested to remove the dead from the battlefield – a proposed course of action that Brigade Command had then approved.

Permission to remove the bodies from the battlefield is sought by 1PWRR and approved by Brigade

2.1765 During his oral evidence to the Inquiry, Major Biggart recalled that, following his initial discussion with Captain Croft on 14 May 2004, during which he had given the instruction for the dead bodies to be identified, he had had a further conversation with Captain Croft a little later that afternoon. I am satisfied that Major Biggart's account of that conversation was both truthful and accurate. According to Major Biggart, Captain Croft informed him that he had been told by the Battle Group operations room that there were no cameras available

²³²⁶ Corporal Tagica (ASI019571) [72]; [88/26-29]

²³²⁷ Corporal Tagica (ASI019571) [72]-[74]

on the battlefield and that the soldiers therefore intended to take the dead bodies back to Camp Abu Naji, in order for them to be identified.²³²⁸ Major Biggart said that he remembered having discussed with others whether this was an appropriate course of action and that he had come to the conclusion that it was, as follows:

*"My recollection is that we agreed with the proposed course of action rather than directing it."*²³²⁹

2.1766 For his part, Captain Croft was unable to recall what orders or instructions were given with regard to the identification or the collection of the dead that day. However, I am satisfied that Captain Croft did have the discussion with the 1PWRR operations room, about which he informed Major Biggart in the conversation summarised in the previous paragraph, although I think it is likely to have been part of a more general discussion with Battle Group concerning the impracticalities and dangers of photographing the dead bodies on the battlefield itself.

2.1767 In his oral evidence to the Inquiry, Major Biggart confirmed that he had not sought Brigadier Kennett's approval for 1PWRR's proposed course of action, because he had considered it to be an entirely reasonable way of going about the matter in the prevailing circumstances at the time.²³³⁰ As Major Biggart explained, the order to collect the dead had not actually been initiated by Brigade. Brigade was not fully conversant with the situation on the battlefield or with how many dead there were. He was sure that the proposal for the dead to be collected from the battlefield and taken back to Camp Abu Naji had originated with the Battle Group, who then put it forward to Brigade for approval. Major Biggart had assumed that Battle Group was in a position to carry that proposal into effect and so he had approved it.²³³¹ As Major Biggart saw it, the proposal by Battle Group, to collect the dead bodies and take them back to Camp Abu Naji to be photographed, was the way in which Battle Group proposed to deal with the identification task that it had had been given in the original order from Brigade and he had then approved Battle Group going about the matter in that way. As Major Biggart said succinctly in his oral evidence to the Inquiry:

*"So us giving authority to do that is my recollection of how this all took place, rather than initiating from the baseline."*²³³²

2.1768 In his oral evidence to the Inquiry, Brigadier Kennett confirmed that he had been unaware of any conversation in which it had been suggested that 1PWRR was to collect the dead bodies and take them back to Camp Abu Naji.²³³³ However, he said that he would not have expected Major Biggart to bring it to his attention in the circumstances because, as he put it:

*"I would have been perfectly content for him to interpret what he thought it was I wanted."*²³³⁴

2.1769 Major Hutchings also recalled that it had been the Battle Group who had sought permission to remove the dead bodies from the battlefield,²³³⁵ although he was mistaken in his recollection that Brigadier Kennett had been present during that particular discussion. On this aspect of the matter, it seems to me that Major Hutchings may well have confused it with those who

²³²⁸ Major Biggart [121/29]

²³²⁹ Major Biggart (ASI022966) [37]

²³³⁰ Major Biggart [121/34-35]

²³³¹ Major Biggart [121/41]

²³³² Major Biggart [121/42]

²³³³ Brigadier Kennett (ASI024026) [40]

²³³⁴ Brigadier Kennett [121/107/1-2]

²³³⁵ Major Hutchings (ASI022611) [30]-[31]

had been present at the earlier conversation in which the decision to identify the bodies had been discussed.

2.1770 In the course of his oral evidence to the Inquiry, Brigadier Kennett said that the original order to identify/photograph the dead implied the collection of the dead from the battlefield so that they could be taken to Camp Abu Naji to be photographed, if that was seen as the best way of dealing with the matter by those on the ground. He confirmed that, in accordance with the concept of “mission command”, those further down the chain of command could implement the intent of Brigade in whatever way they felt to be most appropriate in the circumstances. As he explained:

“the ... task is to identify the insurgents...and therefore in order to do that, it would suggest that those that I had asked to do so would use the available means at their disposal to get on and do the task.”²³³⁶

2.1771 I am therefore satisfied that the original order to identify the dead had been discussed at a level below Brigade, before the Battle Group’s preferred method of implementing it was referred back up the chain of command to Brigade for approval. Despite the concept of “mission command”, it seems likely that Brigade’s approval was sought out of an abundance of caution, because of the very unusual nature of the proposed method of implementing the original order. However, notwithstanding Brigade’s approval having been sought and obtained, the fact that the original order to identify the dead had in this way become an order to collect and transport the dead bodies from the battlefield to Camp Abu Naji on the initiative of the Battle Group is, as Major Biggart explained, broadly illustrative of the concept of “mission command” being used, because the intent of those higher up the chain of command was appropriately implemented by a method determined by those on the ground. Thus, there was nothing untoward in the way in which Brigade’s original order was altered into the order actually implemented on the ground by the Battle Group. In effect, the Battle Group implemented Brigade’s intent, as expressed in the original order, by carrying out that order in a manner that was considered to be practicable in the prevailing circumstances.

2.1772 It is therefore likely that what Major Walch and Captain Curry recalled as having been an order from Brigade to collect the bodies of the dead insurgents, was actually Brigade giving its approval for that particular course of action as an appropriate way in which to implement the intent of the original order, the matter having been referred back to Brigade by the Battle Group for that purpose. In fact, Major Walch also remembered that there had been a number of communications between Brigade and the Battle Group operations room at Camp Abu Naji that day, prior to the conversation in which the order to collect the dead had been given, although he was unaware of the content of those discussions.²³³⁷

2.1773 It is now apparent that a few soldiers did have personal cameras with them on the battlefield,²³³⁸ although it would seem that not all the soldiers at the battle were actually aware of them.²³³⁹ In his oral evidence to the Inquiry, Major Biggart said that he was unaware of the availability of personal cameras on the battlefield and observed that:

“Had we known that some of them did have cameras...which I didn’t know at the time, then it wouldn’t have unfolded the way it has”²³⁴⁰

²³³⁶ Brigadier Kennett [121/107/25]-[108/1-4]

²³³⁷ Major Walch (ASI021671) [76]

²³³⁸ For example, Private Stuart Taylor took a number of photographs on the battlefield.

²³³⁹ Sergeant Kelly [64/34]; Sergeant Henderson [61/95]

²³⁴⁰ Major Biggart [121/74/24]-[75/4]

2.1774 On the evidence there was only a limited number of personal cameras on the battlefield on 14 May 2004. It seems to me to be more than likely that those soldiers who were involved in discussing the practicality of taking photographs on the battlefield were not aware of them or of the soldiers who actually had them.

Dissemination of the order to collect the dead

2.1775 Major James Coote (the Officer Commanding (“OC”), C Company, 1PWRR) recalled having received instructions over the radio, from the operations room at Camp Abu Naji, to bring back the Iraqi dead to Camp Abu Naji. He said he was not happy about the order, because he did not see the point of it and he was concerned for the safety of his men. He queried the order by making contact with the operations room at Camp Abu Naji via satellite telephone.²³⁴¹ For his part, Captain Curry also remembered that, when Major Coote was given the order to collect the dead, he had queried it. As a result, Captain Curry had checked with Brigade before recontacting Major Coote and telling him that the order was confirmed.²³⁴²

2.1776 I am satisfied that the order was queried by Major Coote, because he was concerned with the practicalities and the danger to his men of collecting the bodies of dead insurgents from the battlefield. It seems to me likely that Major Coote queried the order to collect the dead at some stage after that particular course of action had been approved by Brigade, rather than at some earlier stage in the discussions about the practicalities of carrying out the original order and before the order had actually crystallised into its mutated form of being an order to collect the dead from the battlefield.

2.1777 It is clear from the radio logs maintained in the 1PWRR operations room at Camp Abu Naji, that the soldiers involved in the Northern Battle were given instructions to collect the dead from the battlefield at about 18:30 hours on 14 May 2004. An untimed radio message (recorded just before an entry at 18:30 hours) from the operations room at Camp Abu Naji to Major Coote²³⁴³ is in the following terms:

“can ensure all bodies + POW to location”²³⁴⁴

2.1778 This particular entry is followed shortly afterwards at 18:30 hours with an entry recording a further message to Major Coote from the operations room at Camp Abu Naji, which Major Coote believed referred to “Bravo 1” and which explained the objective behind the order:

“we believe one dead is B1k over.”²³⁴⁵

2.1779 At the same time, it appears that the Brigade operations room was notified that the dead were being collected from the battlefield, as can be seen from this entry in the radio log maintained at Brigade:

“bodies bagged and on way to CAN”²³⁴⁶

Although this particular entry appears to suggest that the bodies had already been collected, it seems clear from its timing that it was actually recording the fact that the order was in the

²³⁴¹ Major Coote (ASI018650) [38]-[39]

²³⁴² Captain Curry (ASI016790) [39(e)]

²³⁴³ Major Coote (ASI018664) [91](B)]

²³⁴⁴ (MOD018950)

²³⁴⁵ (MOD018950)

²³⁴⁶ Radio Operator’s Log for 1 Mech Bde (ASI007162)

process of being implemented, rather than being a statement that the order had already been carried out.

2.1780 That this is so, is apparent from another log entry at 18:36 hours, which records the following message from the operations room at Camp Abu Naji to Major Coote, as follows:

*“we need all bodies and prisoners back this loc.”*²³⁴⁷

2.1781 Upon receiving the order to collect the dead, Major Coote passed it onto WO2 David Falconer,²³⁴⁸ who recalled having received and implemented it.²³⁴⁹ Major Coote then passed the message to all other Warrior call signs over the radio net.²³⁵⁰

2.1782 So far as concerns the soldiers at the Southern Battle, Lieutenant William Passmore said that he had received the order from Major Adam Griffiths (the Officer Commanding (“OC”), B Company, 1A&SH) over the satellite telephone. Major Griffiths had first learned of the order to collect the dead from Major Walch in the operations room at Camp Abu Naji. Major Griffiths had questioned the order when he learnt about it, but had been told that the order had come from Brigade Headquarters.²³⁵¹ It is therefore clear that Major Griffiths first learned of the order after it had become a specific order to collect the dead.

2.1783 Lieutenant Passmore said that he did not challenge or query the order once he had received it from Major Griffiths because *“it was my platoon’s job just to get on with it.”* Thus, Lieutenant Passmore passed the order to the 6 and 7 Platoon Sergeants, Sergeant Paul Kelly and Sergeant Stuart Henderson, who in turn passed the order on to the soldiers present at the scene of the Southern Battle.²³⁵²

2.1784 According to Sergeant Henderson, there had not been a specific order to collect the dead bodies on 14 May 2004; he said that he had collected the dead bodies and had ordered the other soldiers to do so, because it was standard operating procedure.²³⁵³ Although Lieutenant Passmore had also said, in the statement that he had given to the RMP in August 2004, that it was standard practice for the enemy dead to be *“returned to unit,”*²³⁵⁴ when he came to make his written Inquiry statement in July 2012, he said that he now believed this to be incorrect.²³⁵⁵

2.1785 I have no doubt that, when they collected the bodies of dead insurgents from the battlefields of both the Southern and the Northern Battles, the soldiers on the ground on 14 May 2004 were carrying out a specific order to collect the dead. I accept Brigadier Kennett’s evidence that the soldiers must have been given an express order to remove the dead, otherwise they would not have done so, as follows:

*“I don’t believe they would have removed the bodies unless they had been told to. I think an order would have had to have been given for it to be done.”*²³⁵⁶

²³⁴⁷ (MOD018950)

²³⁴⁸ Major Coote (ASI018650) [38]

²³⁴⁹ WO2 Falconer (ASI020199) [73]

²³⁵⁰ (MOD018950)

²³⁵¹ Major Griffiths (ASI018505) [94]

²³⁵² Lieutenant Passmore (ASI016127) [110]; Sergeant Kelly [64/25]

²³⁵³ Sergeant Henderson [61/80-81]

²³⁵⁴ Lieutenant Passmore (MOD004651)

²³⁵⁵ Lieutenant Passmore (ASI016127) [109]

²³⁵⁶ Brigadier Kennett [121/113/6-9]

2.1786 I am therefore satisfied that Sergeant Henderson was mistaken in his recollection that the collection of the bodies from the battlefield was standard operating procedure. It is possible that Sergeant Henderson assumed that it was standard procedure, because he had been instructed to collect the bodies by Lieutenant Passmore, who had passed on the order without commenting on it any way.

2.1787 In fact, it is clear that the order to collect the dead was an unusual order.²³⁵⁷ As Major Biggart explained in the course of his oral evidence to the Inquiry, the order to collect the dead was unusual because, although it did happen occasionally for intelligence purposes, as far as he knew there had been no other occasion, during that particular tour, when the enemy dead had been collected from where they had fallen. What he said was this:

*"It certainly didn't happen on our tour before this, to my knowledge, and I don't think it happened on our tour afterwards. I understand that on occasions it is done for intelligence exploitation purposes"*²³⁵⁸

Brigadier Kennett's Apology

2.1788 During his oral evidence to the Inquiry, Brigadier Kennett confirmed that he took full responsibility for the fact that dead bodies had been collected from the battlefield.²³⁵⁹ He also recalled how he had spoken with others after 14 May 2004 and how he had made a general apology, in which he expressed his regret for the fact that the order to collect the dead had been distressing for everybody involved. However, he went on to make it clear that the apology did not amount to an acceptance by him that the decision to collect the dead bodies had been wrong. As Brigadier Kennett explained:

*"I didn't apologise for the fact that it had happened particularly...so the apology to which he refers is the fact that this has caused a great deal of distress to an awful lot of people."*²³⁶⁰

Brigadier Kennett stressed that, in taking responsibility for the order and its consequences, he was not accepting that the order had been the result of any form of mistake or misunderstanding.²³⁶¹ As I have already indicated, I accept that to be correct.

2.1789 However, Major Coote said that he believed that a mistake had occurred in the giving of the order to collect the dead, namely that the Officer Commanding Brigade (i.e. Brigadier Kennett) had not been given a full picture of the situation before the order was given. To some extent, he based this assertion on the fact that, at some stage after 14 May 2004, he had been told that Brigadier Kennett had been in the process of boarding a helicopter, when he was asked whether the dead should be brought back to Camp Abu Naji. Major Coote's understanding was that Brigadier Kennett had agreed to that course of action, but later felt that he had not been sufficiently conversant with all the relevant circumstances before giving the order.²³⁶²

2.1790 Major Biggart did not remember having had any conversation with Brigadier Kennett as he was boarding a helicopter on 14 May 2004, such as that described by Major Coote.²³⁶³ For

²³⁵⁷ See e.g. Major Walch [143/69-71], Private Shotton [109/14], Brigadier Kennett [121/137]

²³⁵⁸ Major Biggart [121/77-79]

²³⁵⁹ Brigadier Kennett [121/144]

²³⁶⁰ Brigadier Kennett [121/144]

²³⁶¹ Brigadier Kennett [121/145-146]

²³⁶² Major Coote [87/56-57]

²³⁶³ Major Biggart [121/43-44]; [121/50-51]

his part, Brigadier Kennett said that the only conversation he had with regard to the dead Iraqis that day had actually been “*outside in the area that the helicopters landed,*” although he did not believe that he had actually boarded a helicopter. As I have already indicated, Brigadier Kennett confirmed that the substance of that one conversation had been that the dead insurgents were to be identified. He also said of that particular conversation:

*“I don’t remember it being rushed actually..... I thought it got the time that I felt at the time it deserved.”*²³⁶⁴

2.1791 I accept Brigadier Kennett’s evidence that, on 14 May 2004, he had only been involved in the one conversation about the dead Iraqis, that it had taken place in the open air in an area near where the helicopters landed, that it was not unduly hurried and that it was mainly concerned with the need to identify the dead bodies and not with any suggestion, at that stage, that the dead bodies should be collected from the battlefield.

2.1792 I do not doubt Major Coote’s integrity as a witness. I am sure that he was a witness of truth. However, the conversation about which he had heard and to which he referred in evidence was a conversation in which he had not been involved and about which he had no direct personal knowledge. In any event, the substance of the conversation to which he referred does not suggest that there had been some breakdown in communication or that the original order had been misinterpreted in some way. In fact, Major Coote confirmed that he had no reason to believe that the order to collect the dead had been the result of any form of unsatisfactory communication.²³⁶⁵ Although the Officer Commanding 1PWRR Battle Group, Lieutenant Colonel Matthew Maer, also said that he had heard of a similar conversation having taken place between Major Biggart and Brigadier Kennett, he accepted that it was likely to have been something that he had heard second or third hand and that he was not in a position to say whether it was accurate or not.²³⁶⁶

2.1793 So far as concerns Major Coote’s suggestion that Brigade had not been fully conversant with the situation on the ground at the time the order was given, Major Biggart and Brigadier Kennett both accepted that they had possessed only a limited knowledge of the overall situation at the time the original order to identify and (later) to collect the dead was given. They both accepted that the order had a number of unfortunate consequences, which they had not foreseen at the time. However, they were both emphatic that they did not believe the order to have been a mistake, nor did they believe that it had come about as a result of one.²³⁶⁷

2.1794 As it seems to me, the fact that Brigade did not have a complete or detailed picture of the precise situation on the ground on 14 May 2004, was not in itself some form of mistake or failing on the part of Brigade. As Lieutenant Colonel Maer confirmed in his Judicial Review statement dated 14 April 2009, the events unfolded at such a rate that the full scale of the contact was not known until after the event. He said this:

“Thus a combination of confusion of battle, the distances across the “battlefield” and from those on it to the Battle Group Operations Room and again from there to Brigade Headquarters, all added to the friction of collating precise, accurate and up to date Information at a single node at a single point of time, while actions were on-going.

²³⁶⁴ Brigadier Kennett [121/109-110]

²³⁶⁵ Major Coote [87/56-57]

²³⁶⁶ Lieutenant Colonel Maer [138/27-28]

²³⁶⁷ Brigadier Kennett [121/146], Major Biggart [121/45-46]

And this is not particular to the circumstances of 14th May 2004, but found in many combat situations; It is often referred to as “the fog of war.”²³⁶⁸

2.1795 I therefore accept Brigadier Kennett’s account of the general apology that he made soon after 14 May 2004. In that apology, Brigadier Kennett accepted overall responsibility for Brigade’s order to identify/collect the Iraqi dead and for the unfortunate consequences that it had. I am satisfied that he made that apology because he honestly and decently recognized that, as the Officer Commanding Brigade, he was accountable for the order and for the fact that he had earlier given instructions for the dead to be identified. In my view, Brigadier Kennett was both a truthful and impressive witness who fully accepted the responsibilities that went with his rank and position and who sought to give frank and honest answers with regard to what he could remember about how the order in question had come about.

2.1796 As it seems to me, consideration of the actual operational merits or otherwise of the order itself does not come within the Inquiry’s Terms of Reference. However, I accept that both Brigadier Kennett and Major Biggart believed that the order was both justified and appropriate, both at the time it was given and with the benefit of hindsight.²³⁶⁹

Consequences of the order to collect the dead

2.1797 It is clear that the order to collect the dead from the battlefield had both immediate and long term consequences. In his contribution to Richard Holmes’ book “Dusty Warriors,” Lieutenant Colonel Maer made this perceptive observation:

“It was a decision that was to have immediate consequences and was to haunt us metaphorically and literally both as individuals and an organisation for the rest of our time and beyond.”²³⁷⁰

2.1798 One of the main consequences of the order was a very unfortunate one. There is no doubt that all the soldiers who handled the dead bodies found the task to be an extremely distressing and upsetting one and one that had a profound and lasting effect on them. All the military witnesses who were involved with the collection and/or handling of the dead bodies described the significant and long term emotional effect that it had on them. The unpleasantness of the task was no doubt increased because of the condition of the bodies.²³⁷¹ The soldiers who loaded the dead bodies into the waiting vehicles on the battlefield described the task as “a horrible job”²³⁷² and a “very traumatic, horrific experience.”²³⁷³ This sentiment was shared by the large number of military witnesses who handled the dead bodies at Camp Abu Naji on the night of 14 May 2004 and the morning of the 15 May 2004.

2.1799 The other main consequence of the order and the one of most immediate significance to the subject matter of this Inquiry was that it left the British Forces very exposed to allegations that Iraqi men had been murdered, tortured and mutilated in Camp Abu Naji overnight on 14 May 2004. This was a consequence which, although not foreseen at the time, turned out to be of great importance in causing the proliferation and the provision of apparent substance to the rapidly disseminated rumours and stories of murder, torture and mutilation that began

²³⁶⁸ Lieutenant Colonel Maer (MOD022534) [20]

²³⁶⁹ Major Biggart [121/45-46]; Brigadier Kennett [121/135-137]

²³⁷⁰ (ASI021492)

²³⁷¹ See e.g. Private Beggs [78/143/8-9], (ASI017993) [77]

²³⁷² WO2 Falconer [146/58/3]

²³⁷³ Corporal Tagica (ASI019573) [79]

to circulate in the local community almost immediately after the Battle of Danny Boy. As WO2 David Falconer succinctly observed in his written Inquiry statement:

*“Now with the benefit of hindsight I think we would have been wiser to have left the bodies on the battlefield rather than bringing them to CAN as doing so has allowed people to make allegations of mistreatment and unlawful killing that they could not have made had the bodies been left where they were.”*²³⁷⁴

2.1800 I will deal with the allegations of ill-treatment and unlawful killing at Camp Abu Naji later in this Report. At this stage, it suffices to say that the order to collect the dead from the battlefield and to take them back to Camp Abu Naji to be identified, particularly given the unusual nature of that order, undoubtedly gave rise to and provided momentum for the rumours and allegations of mutilation, torture and murder that were very soon circulating amongst the local Iraqi population and have continued until today.

2. Overview of the movement of the bodies

The collection of the dead Iraqi bodies on the Southern Battlefield by British soldiers on 14 May 2004

2.1801 The order to collect the bodies of the Iraqi men killed during the Battle of Danny Boy was received at the site of the Southern Battle by Lieutenant William Passmore during a call on a satellite telephone to Major Adam Griffiths. In his written Inquiry statement, Lieutenant Passmore described his reaction and initial response to hearing the order, as follows:

*“The order came as a surprise to me, not least because the last thing I wanted to do after the combat situation that I had just been in was to touch the bodies of the enemy dead. I expected everyone else to feel much the same. I was also very concerned about the order as we were still in a potentially dangerous area. However, although I considered the order to be odd, it was the first time I had ever been in a situation that had resulted in enemy deaths so I did not really know what to expect. I did not question or challenge the order. It was my Platoon’s job just to get on with it.”*²³⁷⁵

2.1802 Lieutenant Passmore then passed on the order to Sergeants Paul Kelly and Stuart Henderson.²³⁷⁶ It appears that the two Platoon Sergeants then took responsibility for its implementation.²³⁷⁷

2.1803 The bodies collected from the Southern Battlefield were located either in the Southern Tank Ditch or on open ground in between the derelict buildings and Route 6. In his written Inquiry statement, Corporal Lee Gidalla said that eight of the dead bodies were located in the Southern Tank Ditch and four on the open ground.²³⁷⁸

2.1804 Sergeant Henderson also recalled that eight dead Iraqi bodies had been found in the Southern Tank Ditch, although he could only remember two dead bodies being collected from the open ground between the derelict buildings and Route 6.²³⁷⁹ For his part, Sergeant Kelly also remembered that a total of twelve dead bodies were collected from the Southern Battlefield, as follows:

²³⁷⁴ WO2 Falconer (ASI020199) [73]

²³⁷⁵ Lieutenant Passmore (ASI016126) [108]

²³⁷⁶ Lieutenant Passmore (ASI016127) [110]

²³⁷⁷ Lieutenant Dormer (ASI013715) [92]; Sergeant Kelly (ASI017347) [114]

²³⁷⁸ Corporal Gidalla (ASI011700) [58]

²³⁷⁹ Sergeant Henderson (ASI013572) [106]

*"I know that we collected 12 bodies in total. I say this because I remember giving this number to Lt Passmore when he was on the satellite telephone (I presumed this to [be] someone at CAN). I believe that I counted the bodies rather than being given this figure by someone else. It is a task I would expect a Platoon Sergeant to carry out."*²³⁸⁰

2.1805 Lieutenant Passmore also remembered having been given this information by one of the Platoon Sergeants.²³⁸¹ Having regard to the evidence given by Sergeant Kelly, which I accept as truthful and accurate, I am satisfied that it was Sergeant Kelly who actually counted the dead bodies and informed Lieutenant Passmore, rather than Sergeant Henderson.

2.1806 On the basis of all the evidence that I have heard, seen and read, I have no doubt that a total of twelve bodies of dead Iraqi men were actually recovered from the Southern Battlefield by the British military on 14 May 2004. It seems to me very likely that eight of those bodies were found in the Southern Tank Ditch and that four were found in the open ground between the derelict buildings and Route 6. In a later part of this Report²³⁸² I will deal with the identity of each of the twelve deceased whose dead bodies were collected from the Southern Battlefield and, so far as is possible on the available evidence, identify the place where each met his death on the battlefield that day.

2.1807 Before any dead body was moved from where it lay on the battlefield, the body was searched by the British soldiers. In his written Inquiry statement, Private Steven Wells explained that:

*"When I use the term search, this does not mean that I searched the bodies going in their pockets etc looking for items or evidence. This is a standard military term and method that we were taught to ensure that the deceased were not booby trapped or feigning injury etc. It ensures the safety of anyone who may come into contact with the deceased."*²³⁸³

2.1808 This explanation of the search process accorded with the evidence of Sergeant Kelly, who also added that the soldiers would have stripped the bodies of their weapons and ammunition as part of that process. However, although Sergeant Kelly remembered that a number of the bodies had been wearing chest webbing at the time, he could not recall whether the webbing had actually been removed during the search process.²³⁸⁴

2.1809 A number of the soldiers gave detailed accounts of how this search process was actually carried out that day. These various accounts were substantially consistent with each other and to the same general effect as the following account by Private Wells of the searches that he carried out with Private Sean Marney:

"Either myself or Pte Marney would jump on the back of the deceased. We would then roll the body over so that the other person (myself or Marney, who would be covering this process with a weapon, normally a rifle) could see the front of the body and underneath it to ensure there is no danger.

*Once the person had confirmed there was no danger the body would be rolled back over onto the ground and we would then move on to the next body."*²³⁸⁵

²³⁸⁰ Sergeant Kelly (ASI017348) [122]

²³⁸¹ Lieutenant Passmore (ASI016126) [106]; [74/31-32]

²³⁸² Paragraph 2.2201 onwards

²³⁸³ Private Wells (ASI020461) [92]

²³⁸⁴ Sergeant Kelly (ASI017347) [115]

²³⁸⁵ Private Wells (ASI020461) [93] – [94]

2.1810 During their oral evidence to the Inquiry, a number of the soldiers from both the Southern and Northern Battles were asked to explain exactly what was meant by jumping on a body in this context. The witnesses explained that it did not mean jumping feet first onto a body, but was more appropriately described as a “belly-flop”.²³⁸⁶ The process was not intended to be a violent or dramatic one; the intention was to get the soldier’s body so positioned on top of the prone deceased body as to be able to roll the body over whilst, at the same time, being shielded from being injured by any booby trap that might be there.

2.1811 At this stage, it is convenient to deal with an allegation made by Private Duncan Aston about an incident involving Private Steven Wells, which was said to have taken place just before the Southern Battle Re-org was called. In his written Inquiry statement, Private Aston described what he claimed had happened, in the following terms:

“I saw Pte Wells enter ditch 1 and stamp on the head of one of the dead bodies. Pte Wells stamped on his heads [sic] two or three times and screamed and shouted. I thought he was letting some anger go after the fire-fight. I believe he was shouting but do not recall what he was shouting. My recollection is that the dead gunman had very short hair and was wearing ripped and tatty clothes.

*I was not aware that Pte Wells was going to do that and could not therefore have stopped him. What I saw shocked me but I did not say anything to him after he did it. I did not witness anyone else doing anything similar at this point.”*²³⁸⁷

2.1812 During his oral evidence to the Inquiry, Private Aston maintained this allegation,²³⁸⁸ although he could not remember whether the stamp had had any effect on the deceased man’s head.²³⁸⁹

2.1813 During his oral evidence to the Inquiry, Private Wells denied Private Aston’s allegation.²³⁹⁰ As it happens, Private Marney had been with Private Wells for much of the time during the Southern Battle. When he made his written Inquiry statement, Private Marney was asked to comment on Private Aston’s allegation about Private Wells’ conduct and he said this:

*“I did not see or hear what is alleged to have occurred. I am certain, given the gravity of those allegations, that I would recall it if I had seen it. I did not hear that subsequently, from Pte Wells or anybody else, that this had occurred.”*²³⁹¹

2.1814 Private Marney then continued as follows:

*“It is my recollection that I was in close proximity to Pte Wells throughout the period that we searched the dead bodies and loaded them onto the Land Rover WOLF. For that reason, I expect that I would have witnessed it if Pte Wells had stamped on a dead body, or at the very least heard him screaming and shouting, as alleged.”*²³⁹²

2.1815 Although Private Aston alleged that Private Wells had stamped on the head of the body at a stage before the bodies were actually searched, I have little doubt that Private Marney was near Private Wells at the material time. I have no doubt that Private Marney was an honest

²³⁸⁶ See e.g. Private Paul Baker [69/36]; Private Marney [73/30]; Lieutenant Plenge [85/9]

²³⁸⁷ Private Aston (ASI015048-49) [88] – [89]

²³⁸⁸ Private Aston [62/51]

²³⁸⁹ Private Aston [62/62]

²³⁹⁰ Private Wells [66/128]

²³⁹¹ Private Marney (ASI022399) [63]

²³⁹² Private Marney (ASI022399) [64]

and truthful witness and I am sure that he was telling the truth when he said that he had not seen or heard Private Wells behaving as alleged by Private Aston.

2.1816 In the course of his evidence, Private Aston said that Private James Lawrence had been positioned close to the incident involving Private Wells. However, in neither his written Inquiry statement²³⁹³ nor in his oral evidence²³⁹⁴ was Private Aston able to say that he was certain that Private Lawrence would have seen the incident, although he did appear to be confident that Private Lawrence would have heard Private Wells shouting.²³⁹⁵

2.1817 However, when Private Lawrence was asked about Private Aston's allegation during his oral evidence, he emphatically and convincingly said that he had not seen or heard any such incident involving Private Wells, as follows:

*"No. And – there was another 20 people that day. That wasn't a massive area. So I am sure there would be another 19 people that would be able to verify what he said. It wasn't – we wasn't miles and miles from each other. We were a matter of metres. So – no, I didn't hear any of that, no, or see that."*²³⁹⁶

2.1818 I have no doubt that Private Lawrence's evidence about the matter was both truthful and accurate. Furthermore, despite the presence of a significant number of soldiers within a relatively small area at the time, none claimed to have seen or heard anything of this particular incident, apart from Private Aston.

2.1819 Having carefully considered all the evidence, I have come to the firm conclusion that Private Wells did not deliberately stamp on the head of a deceased Iraqi as Private Aston alleged or at all. I have no doubt that Private Wells, Private Marney and Private Lawrence all gave truthful and accurate evidence about the matter. Although the evidence of neither Private Marney nor Private Lawrence wholly excluded the possibility of the incident having occurred, their evidence did provide very compelling and powerful support for Private Wells' denial of having behaved as alleged by Private Aston.

2.1820 It is possible that Private Aston simply mistook what he saw. It is possible that Private Aston somehow misinterpreted what he saw when Private Wells was actually conducting a search of a dead body or that he saw Private Wells stamp on the ground near the body of a deceased Iraqi and mistook it for stamping on the head of the body.

2.1821 In earlier parts of this Report I have addressed Private Aston's credibility at some length. Whereas, as I have already indicated, I have no doubt that Private Wells was generally an honest and truthful witness, on a number of earlier occasions I have come to the firm conclusion that Private Aston was an unreliable witness.²³⁹⁷ It seems to me that this particular matter is yet another instance in which he has shown himself to be an unreliable witness, whose evidence I do not accept as correct. On those earlier occasions, I could see no basis upon which I could properly conclude that Private Aston had made deliberately false allegations and that remains the case with regard to this particular matter also. It seems that, perhaps due to the excitement and/or the stress of the moment, Private Aston was prone to make mistakes or to misinterpret what he had seen take place on the battlefield from time to time.

²³⁹³ Private Aston (ASI015049) [90]

²³⁹⁴ Private Aston [62/62-63]

²³⁹⁵ Private Aston [62/63]

²³⁹⁶ Private Lawrence [68/114]

²³⁹⁷ See paragraphs 2.387, 2.583 – 2.584

2.1822 Sergeant Henderson ordered two soldiers to bring two of the Land Rovers closer to the Southern Tank Ditch, in order to assist with the process of collecting the bodies.²³⁹⁸ One of the soldiers tasked to do this was Private Wells²³⁹⁹ and another was Private Paul Baker.²⁴⁰⁰ In fact, it seems that three Land Rovers were brought closer to the scene of the engagement.²⁴⁰¹ The third Land Rover appears to have been brought over by Private Robert Schwar.²⁴⁰²

2.1823 The bodies were each carried by two soldiers. The process was described in some detail by Corporal Lee Gidalla in his written Inquiry statement, as follows:

*"We carried the bodies by their legs and arms and there would be one or two soldiers in the Land Rover to help lift them in to the back. I cannot remember who else did this task. Whoever was carrying a body would lift it and the soldiers in the Land Rover would lift it in at the same time. There was no force needed to get the bodies into the back and at no point were the bodies dragged or thrown."*²⁴⁰³

2.1824 Lieutenant William Passmore added the following further detail to these observations:

*"I recall that where possible, soldiers picked up bodies by the clothes so that they did not have to touch the bodies themselves and I remember that, as the clothing rode up, wounds were exposed."*²⁴⁰⁴

2.1825 Private Scott Barlow outlined some of the difficulties which the soldiers encountered when carrying the bodies, as follows:

*"I can recall dragging at least two bodies for a few metres to the Land Rover. I think I took the arms and the Cpl took the legs. At one point I tripped and fell and the body we were moving fell on me."*²⁴⁰⁵

2.1826 In their evidence to the Inquiry, a number of the soldiers from the Southern Battle described how they felt about handling the bodies of the dead Iraqis. The common theme of the soldiers' evidence was that the task of collecting the bodies was particularly unpleasant, as can be seen from the excerpts set out in the paragraphs that follow.

2.1827 In his written Inquiry statement, Corporal Gidalla said this:

*"I was not happy with the order I received to remove the bodies and taken them to CAN as it was a horrible job to remove insurgents' bodies from the scene of a contact, but I just got on with it as I had been tasked to do it."*²⁴⁰⁶

2.1828 This sentiment was echoed by Private Steven Wells, in the following terms:

*"This was not a task I felt comfortable with, in fact it was very unpleasant, and I have tried to block out my mind a lot of the memory of the dead that I saw. This was the first time I had seen a dead body."*²⁴⁰⁷

²³⁹⁸ Sergeant Henderson (ASI013570) [99]

²³⁹⁹ Private Wells (ASI020460) [91]

²⁴⁰⁰ Private Baker (ASI009127) [64]

²⁴⁰¹ Sergeant Kelly (ASI017349) [128]

²⁴⁰² Private Schwar (ASI018427-28) [78] – [80]

²⁴⁰³ Corporal Gidalla (ASI011702) [66]

²⁴⁰⁴ Lieutenant Passmore (ASI016128) [112]

²⁴⁰⁵ Private Barlow (ASI012305) [48]

²⁴⁰⁶ Corporal Gidalla (ASI011699) [55]

²⁴⁰⁷ Private Wells (ASI020461) [96]

2.1829 One soldier, Private Robert Anderson, recalled how he had been obliged to take a break from the job of handling the bodies, because the task had made him feel sick.²⁴⁰⁸ However, in their evidence to the Inquiry, the soldiers and officers who were involved in this process all stressed that the bodies were handled with care and respect and were not ill-treated in any way. Thus, Sergeant Paul Kelly said this:

*"I did not see anyone mistreating the dead. We had to move and load them quickly, but this was because of the situation that we were in. There was a sense of urgency, but I saw nothing malicious."*²⁴⁰⁹

2.1830 Lieutenant James Dormer gave evidence to like effect, as follows:

*"The handling of the dead bodies was done in a professional way, despite the unpleasantness of the task. The primary concern was getting out of the area in case we came under fire again. I did not witness any mistreatment of the bodies during this task and if I had witnessed anything like this I would have stepped in as an officer to stop such activity."*²⁴¹⁰

2.1831 For his part, Sergeant Stuart Henderson summarised the manner in which the matter was handled in the following terms:

*"I did not see any mistreatment of the dead bodies. In my RMP statement I describe the bodies as being treated "unceremoniously" and by this I mean given the situation we were in, the fact we were trying to leave the area and were concerned about coming under any further fire, we were moving the bodies as quickly as possible."*²⁴¹¹

2.1832 I am satisfied that the way in which the dead Iraqi bodies were collected and carried by the soldiers was truthfully and accurately described in the foregoing evidence. I am therefore satisfied that, to the extent the prevailing circumstances permitted, the soldiers treated the dead bodies with appropriate care and respect when collecting and carrying them on the battlefield that day. Nevertheless, despite the care taken by the soldiers in carrying out this particular difficult and unpleasant task, inevitably the process itself involved an inherent risk of causing some unintentional further damage to the bodies.

2.1833 The risk of causing further damage to the bodies was exacerbated by the extent to which many of those bodies were already extensively damaged by the very serious wounds inflicted on them during the battle itself. Thus, in his first written Inquiry statement, Private Robert Anderson described the condition of the bodies in the following terms:

*"They were bloodied and mangled up and so badly wounded that in some cases the bones were exposed."*²⁴¹²

2.1834 When asked about this passage in his written statement during his oral evidence to the Inquiry, Private Anderson said this:

²⁴⁰⁸ Private Anderson [71/150-151]

²⁴⁰⁹ Sergeant Kelly (ASI017349) [125]

²⁴¹⁰ Lieutenant Dormer (ASI013718) [101]

²⁴¹¹ Sergeant Henderson (ASI013572) [107]

²⁴¹² Private Anderson (ASI010944) [67]

*"I seen one of the bodies had his femur split in two. And I remember one person had been shot through the eye, and I think one of the bodies that I tried to pick up had been shot through the arm, because when I tried to pick him up by the arms (inaudible)."*²⁴¹³

2.1835 It was apparent that Private Anderson found the memory of this incident so distressing, when giving his oral evidence to the Inquiry, that he was unable to complete what he was trying to say. However, in his written Inquiry statement, Lieutenant Passmore described an incident that was very likely the same incident as that which Private Anderson had tried to describe, as follows:

*"I particularly remember one incident in which a soldier attempted to pick up a body and one of the arms seemed to almost come away as he did so."*²⁴¹⁴

2.1836 According to Sergeant Kelly, the dead bodies were loaded into three Land Rovers at the scene of the Southern Battle.²⁴¹⁵ Although, as I have already indicated,²⁴¹⁶ three Land Rovers had been driven close to the Southern Tank Ditch, it is clear from the evidence of those who received the bodies at Camp Abu Naji later that same day, and to which I will refer in a later part of this Report,²⁴¹⁷ that the bodies were actually loaded into two Land Rovers. It appears that the third one, driven by Private Robert Schwar, was actually used to transport the weaponry recovered from the dead Iraqi men on the Southern Battlefield.

2.1837 As I have already indicated,²⁴¹⁸ in his written Inquiry statement, Corporal Lee Gidalla described how there had been soldiers inside the Land Rovers in order to help lift the dead bodies into the vehicles.²⁴¹⁹ In his written Inquiry statement, Sergeant Kelly said this:

*"I only have vague memories of how the bodies were placed in the Land Rovers. I think I saw one soldier putting a body on his shoulder and then lifting and passing it to someone in the vehicle. I also remember seeing pairs of soldiers lifting (not throwing) bodies into a vehicle. Again, the men were working as quickly as possible, but I saw nothing that I consider to have been intentionally disrespectful to the dead."*²⁴²⁰

2.1838 For his part, in his written Inquiry statement, Private Scott Barlow described the way in which the dead bodies were loaded into the Land Rovers, in the following terms:

*"I think we swung them in. I believe we did this because the bodies were heavy and we needed to get momentum to put them in the back."*²⁴²¹

2.1839 I am satisfied that these witnesses accurately described the way in which the dead Iraqi bodies were loaded into the Land Rovers at the scene of the Southern Battle that day. I have no doubt that it was an awkward and very unpleasant task to load battle-damaged and blood-covered dead bodies into the Land Rovers. Whilst I accept that the bodies were loaded as carefully as possible, it is likely that some of the bodies were swung into the rear of the vehicle as part of an overall process of loading them as quickly and efficiently as possible. It was the difficult and dangerous circumstances then prevailing that made it necessary to load

²⁴¹³ Private Anderson [71/152]

²⁴¹⁴ Lieutenant Passmore (ASI016128) [112]

²⁴¹⁵ Sergeant Kelly (ASI017350) [129]

²⁴¹⁶ See paragraph 22 above

²⁴¹⁷ Insert xref

²⁴¹⁸ See paragraph 23 above

²⁴¹⁹ Corporal Gidalla (ASI011702) [66]

²⁴²⁰ Sergeant Kelly (ASI017350) [130]

²⁴²¹ Private Barlow (ASI012305) [48]

the bodies quickly in this way, it was not an indication that the bodies were being treated with any lack of respect by the soldiers who were carrying out the job of loading the bodies that day.

2.1840 In the event, the dead bodies occupied a significant amount of the available space in the rear of the Land Rovers. This meant that the bodies had to be placed on the seats as well as on the floor of the vehicles.²⁴²² A number of soldiers also recalled how ponchos had been placed on top of the dead bodies in order to cover them up.²⁴²³

2.1841 As it happened, the presence of the dead bodies in the rear of the Land Rovers, particularly on the floor of the vehicles, presented the soldiers with a practical difficulty on the journey back to Camp Abu Naji that day. As Corporal Lee Gidalla explained in his written Inquiry statement:

*"All the soldiers had to get back to CAN in the same vehicles we had to use for transporting the dead insurgents. When we drove back to CAN, soldiers still had to provide top cover in the back of the Land Rover. Therefore soldiers had to stand on the bodies to be able to do this, unless they could have found a place to stand on the seats, which would have been difficult."*²⁴²⁴

2.1842 Both Private Wells²⁴²⁵ and Private Lawrence²⁴²⁶ recalled having had to stand on the dead bodies during the journey back to Camp Abu Naji, in order to provide top cover that day, as did Private Kristopher Henderson.²⁴²⁷ For his part, Private Aston said that he had managed to avoid standing on the dead bodies during the journey back to Camp Abu Naji, as follows:

*"I recollect that I had to stand in the back of the vehicle with my feet between the bodies rather than on top of them. I did this by standing on the parts of the vehicle that were visible to me such as on the boxes where the wheel arches were situated."*²⁴²⁸

2.1843 I am satisfied that some of the soldiers travelling in the rear of the Land Rovers were obliged to stand on the dead bodies, whilst providing top cover during the journey back to Camp Abu Naji on 14 May 2004. However, I have no doubt that it was necessary to provide top cover during the journey back to Camp Abu Naji that day. As I have already described in an earlier part of this Report, the convoy of vehicles from the Southern Battlefield had to travel through an area of considerable enemy activity and was actually subjected to a significant amount of hostile fire during the journey, particularly in the vicinity of the Danny Boy VCP.²⁴²⁹ Given the number of dead bodies in each of the two Land Rovers, it is clear that the provision of top cover in those two vehicles would have been difficult, if not impossible, without at least some soldiers standing on the bodies. I have no doubt that none of the soldiers wanted to do so and that, to the extent that they did, they acted out of necessity.

2.1844 In my view, it is probable that some of the dead Iraqi bodies did suffer further damage as a result of being stood on by some of the soldiers in this way. It seems to me likely that the extent of any existing wounds or fractures could well have been exacerbated by a body having been stood on, particularly over a period of time and whilst the vehicle was in motion.

²⁴²² Private Lawrence (ASI022228) [52]; Private Wells (ASI020462) [106]

²⁴²³ Private Lawrence (ASI022228) [52]; Private Wells (ASI020462) [103]; Corporal Gidalla (ASI011703) [68]

²⁴²⁴ Corporal Gidalla (ASI011703) [70]

²⁴²⁵ Private Wells (ASI020462) [106]

²⁴²⁶ Private Lawrence (ASI022228) [53]

²⁴²⁷ Private Henderson (ASI011663) [48]

²⁴²⁸ Private Aston (ASI015063) [154]

²⁴²⁹ See paragraph 2.1573 onwards

Furthermore, it also seems very likely that the soldiers' boots would have left marks and imprints on the bodies as a result. However, I have no doubt that any such additional damage caused to the bodies in this way was not deliberate and was not the result of any disrespectful treatment. It was entirely due to force of circumstance.

The arrival at Camp Abu Naji of the dead Iraqi bodies from the Southern Battlefield on 14 May 2004

2.1845 A number of officers who were at Camp Abu Naji on the afternoon/evening of 14 May 2004 were aware that dead bodies had been collected from the Southern Battlefield and were being brought back to the camp. The Medical Troop ("Med Troop") Commander, Captain John Turner, was in the Medical Centre at Camp Abu Naji and had some limited awareness of the battle having taken place,²⁴³⁰ because he had received a call from a Watch-keeper in the Ops Room. In his statement to the Royal Military Police, Captain Turner said that he thought he had received this call at 15:30 hours,²⁴³¹ a time estimate that he maintained during his oral evidence to the Inquiry.²⁴³² However, it is clear that Captain Turner's estimate as to the time he had received this call was incorrect, because the opening stages of the Battle of Danny Boy (i.e. the initial ambush of Major Adam Griffiths' Rover Group) did not take place until shortly before 16:47 hours.²⁴³³ Nevertheless, I have no reason to doubt that this call did actually take place, although it must have occurred quite a lot later than Captain Turner estimated.

2.1846 Captain Turner was not able to remember all the details of the call. However, he specifically recalled that he had been given the following three pieces of information during the call:

- a. that 20 dead Iraqi bodies were being brought back to camp;
- b. that Brigade HQ suspected that Bravo 1 and possibly Bravo 2,²⁴³⁴ both known or suspected insurgents, were among the dead and that they wanted confirmation of this; and
- e. that the dead bodies were being brought back to Camp Abu Naji in order to identify them.²⁴³⁵

2.1847 As a result of having received this particular call that afternoon, Captain Turner took the following two important steps. First, he asked for a message to be passed to the Commanding Officer that the bodies should be brought directly to the Medical Centre at Camp Abu Naji, in order that they could be certified dead by a doctor and so that they could be stored in the refrigerated ISO container situated behind the A&E building. Captain Turner could not remember whether he specifically asked for the bodies to be taken to the front of A&E or whether he simply requested that they be taken to the medical centre.²⁴³⁶ Second, Captain Turner went to the Med. Troop HQ to seek volunteers for the task of receiving the bodies.²⁴³⁷

2.1848 At about the same time, Major Adam Griffiths was monitoring the progress of 6 and 7 Platoons 1A&SH, using the Battle Group radio net. When he became aware that the two Platoons were nearing Camp Abu Naji, Major Griffiths left the Ops Room and went to the front gate of the

²⁴³⁰ Captain Turner (ASI017606) [88]

²⁴³¹ MOD019007

²⁴³² Captain Turner [102/74-75]

²⁴³³ MOD019785

²⁴³⁴ The witnesses from Brigade HQ who gave evidence did not mention Bravo 2 as being a suspected insurgent. It is not possible to say who referred to Bravo 2 or when this information was passed to Captain Turner

²⁴³⁵ Captain Turner (ASI017606) [89]

²⁴³⁶ Captain Turner (ASI017606) [90]

²⁴³⁷ Captain Turner (ASI017607) [94]

camp.²⁴³⁸ During his oral evidence to the Inquiry, Major Griffiths explained that he would have remained just inside the gate and would not have gone outside it without a team being with him.²⁴³⁹

2.1849 Major Griffiths also ordered Colour Sergeant Colin Wilson to go to the front gate of Camp Abu Naji, though they do not seem to have gone there together.²⁴⁴⁰ Whilst Major Griffiths remained inside the main gate, it appears that Colour Sergeant Wilson waited outside.²⁴⁴¹ For his part, Colour Sergeant Wilson remembered having been given the job of meeting the 1A&SH call signs and that he had been told to send them to the vicinity of the Ops Room.²⁴⁴² He also confirmed that he was aware that the vehicles were carrying dead Iraqi bodies, although he could not remember whether he had learnt this when he received his order from Major Griffiths.²⁴⁴³

2.1850 There are a number of entries in the radio logs, between 19:15 hours and 19:22 hours on 14 May 2004, that suggest that the dead Iraqi bodies from the Southern Battlefield reached Camp Abu Naji at about this time.²⁴⁴⁴ Lieutenant Henry Floyd was shown these entries during his oral evidence to the Inquiry and confirmed that they did record the arrival at Camp Abu Naji of the dead Iraqi bodies from Southern Battle.²⁴⁴⁵

2.1851 The entries in the radio logs were also consistent with Major Griffiths' estimate that the dead Iraqi bodies from the Southern Battle had arrived at Camp Abu Naji at approximately 19:15 hours on 14 May 2004.²⁴⁴⁶

2.1852 However, there is one contemporary document, which appears to record an earlier arrival time for the arrival at Camp Abu Naji of the dead bodies from the Southern Battlefield that day, which requires separate consideration. The document in question is numbered MOD022556 and is a handwritten memorandum composed by the Senior Medical Officer, Major Kevin Burgess. A copy of the document appears below, at figure 70.

²⁴³⁸ Major Griffiths (ASI018507) [100]

²⁴³⁹ Major Griffiths [60/38]

²⁴⁴⁰ Colour Sergeant Wilson (ASI016810) [51]

²⁴⁴¹ Colour Sergeant Wilson [83/140]

²⁴⁴² Colour Sergeant Wilson (ASI016810) [51]

²⁴⁴³ Colour Sergeant Wilson [83/139]

²⁴⁴⁴ ASI022148

²⁴⁴⁵ Lieutenant Floyd [75/58-60]

²⁴⁴⁶ Major Griffiths (ASI018507) [100]; MOD018826

Figure 70: MOD022556

inner view [https://v5.lextranet.net/ica/customDB/omni/inner_view.ica?session_key=135f5460c0d2-17daec3-2af61-2013-1daf-2319-55de3de3objectID=2105Page 1 of 1]

- Al-Sweady -

Memorandum

MOD Form 4
(Revised 8/90)

<p>To: 14/5/04</p> <p>From: Major Burgess</p> <p>Subject:</p> <p>- 1730 ref 2 x P2 → 1st day - 1745 ref 14 x Dead Enemy - 1830 ref 2 Dead round (2 x P2) → 1800 P3 shaped - 2000 ref 2 Dead round unburied quickly 1st day - 2005 ref 1 x P1 enemy - 2030 ref 8 x Dead Enemy 2045 Shaped ground raised - 2130 8 x dead round → 10 x 2 x P2 2230 - Starts down</p>	<p>Date:</p> <p>Place:</p> <p>By:</p> <p>For:</p>
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Typed Name Typed Name Typed Name

90A

MOD022556

2.1853 Major Burgess was a Senior Medical Officer in B Squadron of the First Battalion, Close Support Medical Regiment based at Camp Abu Naji on 14 May 2004²⁴⁴⁷ and was present in the Medical Centre at Camp Abu Naji when the dead bodies from the Southern Battlefield actually arrived.²⁴⁴⁸ Major Burgess described the handwritten document in question (hereafter “the Burgess Memorandum”) as a “*running note*” that he had kept on 14 May 2004. He explained that he had written this running note in a “*memo pad*” that was kept next to the telephone in the Medical Centre for the purposes of noting what was said in any telephone conversations.²⁴⁴⁹

2.1854 As can be seen from figure 53 above, the Burgess Memorandum records that the dead bodies from the Southern Battlefield (by reference to a group of 12 bodies) had arrived at 18:30 hours. This is clearly an earlier arrival time for the bodies at Camp Abu Naji than that suggested by both the radio logs and Major Griffiths.

2.1855 In the event, I am satisfied that the time apparently recorded in the Burgess Memorandum for the arrival of the dead bodies from the Southern Battlefield is incorrect. It can be seen that the Burgess Memorandum is a somewhat untidy document and was obviously never intended to be a formal record. Thus, one of the times recorded later in the document has

²⁴⁴⁷ Major Burgess (ASI014195) [4]

²⁴⁴⁸ Major Burgess (ASI014205) [48]

²⁴⁴⁹ Major Burgess (ASI014201) [34] – [35]

been amended from 23:30 hours to 21:30 hours and some other information has been crossed through. Furthermore, the way in which the entries at 18:00 hours and 18:30 hours appear on the page strongly suggest that they were later insertions. Although Major Burgess consistently denied having done so,²⁴⁵⁰ it seems to me likely that he added these entries to the document at some stage after he had written the entry at 20:00 hours. I am satisfied that he did not have any sinister or improper motive for doing so, nor do I believe that he was deliberately untruthful about the matter. In my view he was honestly mistaken in his recollection and that his only reason for inserting the entry in this way was to preserve the apparent chronological sequence of entries. However, the fact that these entries were later insertions, rather than a contemporary record, may explain how the recorded time for the arrival of the dead bodies is incorrect. Major Burgess simply made a mistake about the timing when he added it to his running note, something that he himself accepted in his oral evidence might have occurred.²⁴⁵¹

2.1856 For these reasons, I am satisfied that the evidence of Lieutenant Floyd, Major Griffiths and the radio logs, with regard to the time that the dead Iraqi bodies from the Southern Battlefield arrived at Camp Abu Naji on 14 May 2004, is correct and that the time stated on the Burgess Memorandum is incorrect. Accordingly, I am satisfied that the dead Iraqi bodies from the Southern Battlefield actually arrived at Camp Abu Naji at or about 19:15 hours on 14 May 2004.

2.1857 Lieutenant Dormer recalled meeting Major Griffiths when he arrived at the main gate. His recollection was that he also met Colour Sergeant Stewart Riddock.²⁴⁵² In fact, Colour Sergeant Riddock was in the vicinity of the Ops Room when the Land Rovers arrived at Camp Abu Naji²⁴⁵³ and so it is likely Lieutenant Dormer was confusing him with Colour Sergeant Wilson.

2.1858 Lieutenant James Passmore²⁴⁵⁴ and Sergeant Stuart Henderson²⁴⁵⁵ also both remembered that Major Griffiths had met them when they arrived at Camp Abu Naji that evening.

2.1859 The vehicles containing the dead bodies from the Southern Battlefield proceeded to the Ops Room first. Once there, the 1A&SH and Household Cavalry Regiment soldiers left their Land Rovers and went behind the Ops Room in order to strip off and check each other for shrapnel and concealed wounds.²⁴⁵⁶

2.1860 Major Griffiths then gave Colour Sergeant Wilson the job of arranging for the Land Rovers, which were loaded with the dead Iraqi bodies, to be driven to the Medical Centre.²⁴⁵⁷ Although nothing of significance turns on it, the way in which that order was actually carried out is not entirely clear from the evidence. Colour Sergeant Wilson claimed to have driven one of the vehicles to the Medical Centre himself and that the other had been driven there by Private Craig McMeeken.²⁴⁵⁸ However, Private McMeeken recalled that he had driven one of the Land Rovers, with Colour Sergeant Wilson as a passenger.²⁴⁵⁹ Corporal Kristen Garner and Corporal Billy Kozar both remembered that they had been responsible for driving

²⁴⁵⁰ Major Burgess [99/61]

²⁴⁵¹ Major Burgess [99/146]

²⁴⁵² Lieutenant Dormer (ASI013724) [128]

²⁴⁵³ Colour Sergeant Riddock (ASI018705) [14]

²⁴⁵⁴ Lieutenant Passmore (ASI016141) [159]

²⁴⁵⁵ Sergeant Henderson [61/90]

²⁴⁵⁶ Major Griffiths (ASI018509) [106]; Lieutenant Dormer (ASI013724) [129]; Lieutenant Passmore (ASI016142) [165]; Sergeant Kelly (ASI017358) [168]; Private Baker (ASI009132) [88]; Private Connelly (ASI017818) [78]

²⁴⁵⁷ Major Griffiths (ASI018509) [104]

²⁴⁵⁸ Colour Sergeant Wilson (ASI016812) [57]

²⁴⁵⁹ Private McMeeken (ASI009626) [39]

two of the Land Rovers from the Ops Room to the Medical Centre.²⁴⁶⁰ Lance Corporal David Boyd remembered that Private McMeeken had driven one of the vehicles and that he (Lance Corporal Boyd) had walked to the Medical Centre alongside the vehicle, accompanied by Corporal Richard Harrower.²⁴⁶¹ For his part, Corporal Harrower remembered having walked across to the Medical Centre with Private Brian Johnstone²⁴⁶² – a recollection that was shared by Private Johnstone.²⁴⁶³

2.1861 As I have already indicated, I am satisfied that nothing of significance turns on these discrepancies in the evidence about how the Land Rovers containing the dead bodies were actually driven from the Ops Room to the Medical Centre that evening. It suffices to say that it is clear that the Land Rovers containing the dead Iraqi bodies from the Southern Battlefield were duly driven to the Medical Centre that evening and that they were accompanied by a number of the soldiers from Major Griffiths' Rover Group.

2.1862 The medical complex at Camp Abu Naji was in the far corner of the compound, depicted in the top left hand corner of the plan view that appears below as figure 71. The Operations Room, from which the Land Rovers were driven that evening, can be seen in the bottom centre of the photograph, close to the Prisoner Handling Compound:

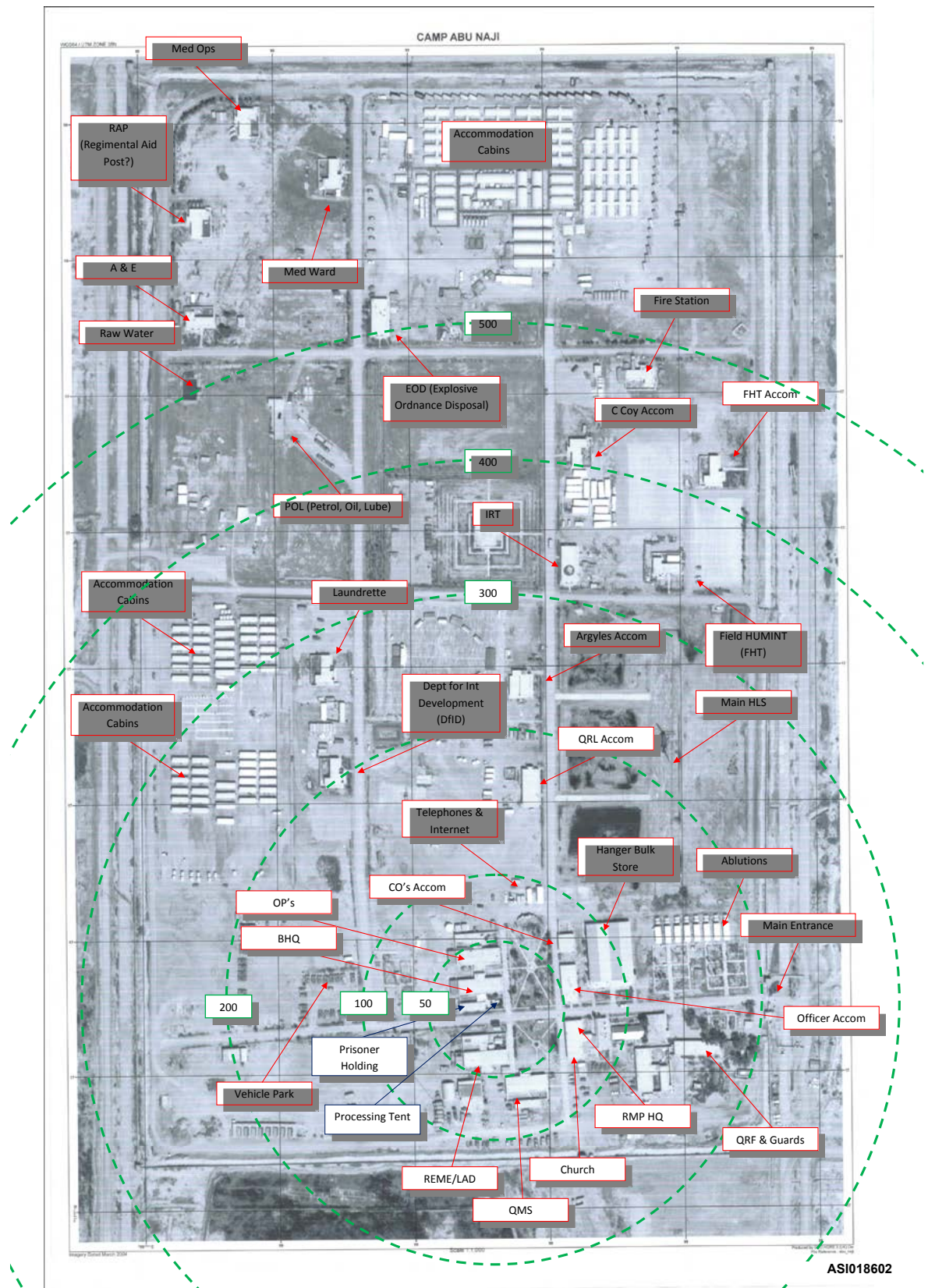
²⁴⁶⁰ Corporal Kozar (ASI011031) [57]; Corporal Garner (ASI017916) [65]

²⁴⁶¹ Lance Corporal Boyd [61/153]

²⁴⁶² Corporal Harrower (ASI009506) [80]

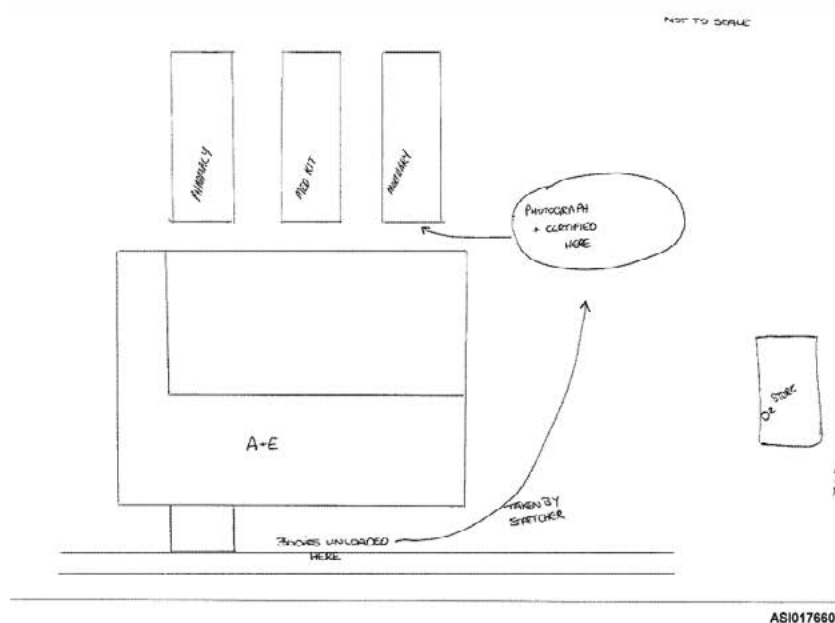
²⁴⁶³ Private Johnstone (ASI014978) [68]

Figure 71: ASI018602



- 2.1863** There were a number of buildings within the medical complex. The first and largest was the Accident and Emergency building, referred to by most as the “Medical Centre” or the “A&E”. Behind this building were three ISO containers, one for storing medicine, one for medical kit and one that was refrigerated and used as a mortuary.²⁴⁶⁴
- 2.1864** In the vicinity of the A&E building was a Medical operations building (where the ambulance squadron were based), a ward and the Regimental Aid Post building.²⁴⁶⁵
- 2.1865** The following sketch plans of Camp Abu Naji, drawn by Captain Turner, depicts the location of the Medical Centre and its various associated buildings:

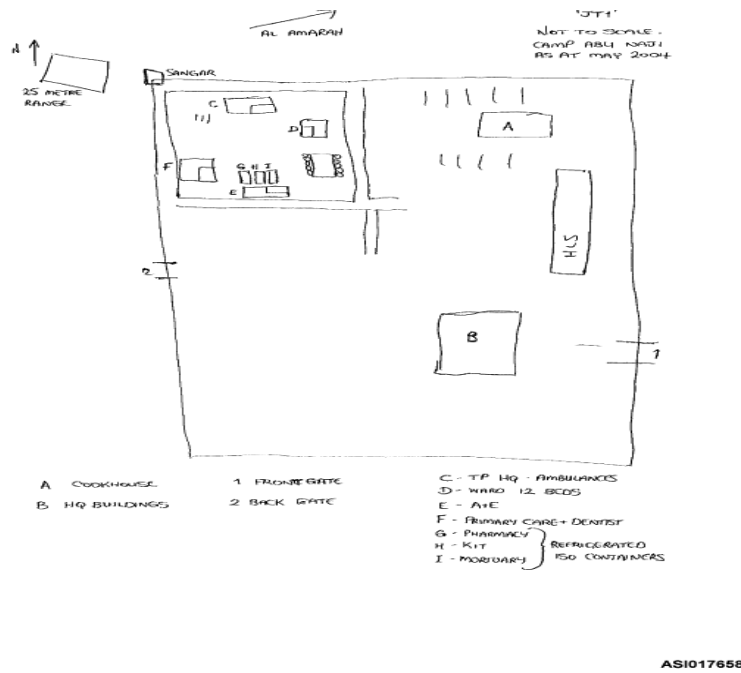
Figure 72: ASI017660



²⁴⁶⁴ Captain Turner (ASI017595) [34]; (ASI017658); Major Burgess (ASI014197) [15]. Captain Bailey actually only recalled two ISO containers but confirmed that one was refrigerated and used as a mortuary on 14 May 2004 (ASI015271)

²⁴⁶⁵ Captain Bailey (ASI015271) [23] – [24]; (ASI015312); Major Burgess (ASI014197) [13] (ASI014230)

Figure 73: ASI017658



2.1866 The front of the Accident and Emergency building is shown in the following two pictures, that show its front entrance, as seen from the internal camp road along which it was approached:

Figure 74: MOD050592



Figure 75: MOD050589



2.1867 One of the Land Rovers actually went to the ward building within the Medical Centre complex first, before driving on to the A&E. Private David Otton happened to have been in the ward at the time and he described how a Land Rover had pulled up outside the ward and somebody from the vehicle had entered the building.²⁴⁶⁶ In his written Inquiry statement, Private Otton described what happened next, in the following terms:

“The man from the Land Rover told me that there were dead Iraqi bodies in the back of the Land Rover and asked for assistance regarding what he should do with them. I do not know why he had come to the ward. I gave the driver directions to the A&E building and informed the man from the Land Rover that he needed to take the bodies there immediately as there would be doctors on duty there who could certify the dead. Only doctors are permitted to declare somebody dead. I also directed the Land Rover to A&E as I knew that the morgue was located nearby. I seem to recall it was me who told him to go to A&E although it may well have been somebody else from the ward.”²⁴⁶⁷

2.1868 Private John Zoumides also described having seen a Land Rover in the vicinity of the ward building, although it is not entirely clear whether this was the same vehicle as the one to which Private Otton referred. Private Zoumides said that he saw that the vehicle was heading in the direction of the A&E. Although he did not know why the vehicle was travelling that way, he had hurried over towards it because, as a medic, he hoped that he could provide any necessary assistance.²⁴⁶⁸ Private Zoumides saw the Land Rover pull off the internal camp road and come to a halt on a patch of open ground between the ward building and the A&E.²⁴⁶⁹ Private Zoumides said that he could see some dead bodies and one British soldier in the rear of the vehicle. According to Private Zoumides, the tailgate was open and the soldier was in the rear of the vehicle, preventing the bodies from falling out.²⁴⁷⁰

²⁴⁶⁶ Private Otton (ASI010186) [21]

²⁴⁶⁷ Private Otton (ASI010186) [22]

²⁴⁶⁸ Private Zoumides [86/16-18]

²⁴⁶⁹ Private Zoumides [86/18]

²⁴⁷⁰ Private Zoumides [86/19-20]

2.1869 Private Zoumides went on to describe how the soldier in the rear of the Land Rover had passed a body out to him and that he had taken it over his shoulder.²⁴⁷¹ He said that that another soldier had come over to help him almost immediately.²⁴⁷² This soldier may well have been Captain Matthew Douglas, who happened to be present when a Land Rover arrived at the ward building that evening. Captain Douglas remembered that there had been enough time for him to go into the ward to fetch some latex gloves for himself and for the three or four other junior soldiers who also happened to be present at the time, so that they could help unload the bodies.²⁴⁷³

2.1870 In his written Inquiry statement, Captain Douglas described how he had helped move two of the dead bodies, as follows:

“From what I recall, each body had to be slid down from on top of the body it was stacked on. I believe that I lifted the bodies by the either [sic] wrists or armpits while another person took the legs. The bodies were lifted out of the vehicle in this manner and then were carefully placed on the ground outside the hospital ward.”²⁴⁷⁴

2.1871 For his part, Private Zoumides remembered that he had started to carry the dead body in the direction of the A&E, rather than having placed it on the ground outside the ward.²⁴⁷⁵ However, both Private Zoumides and Captain Douglas recalled that they had then been given instructions to deal with the bodies differently. Thus, in his written Inquiry statement, Private Zoumides said this:

“As I started to carry the body towards A&E, someone, I do not know who, came over and said to put the body back on the Land Rover and for the Land Rover to drive right up to the A&E building. We handed the body back to the soldier still in the back of the Land Rover and he pulled the body back on top of the pile of the bodies and the Land Rover then drove to the A&E.”²⁴⁷⁶

2.1872 Captain Douglas gave a similar account in his written Inquiry statement, as follows:

“After I had unloaded the two bodies, the Quartermaster (“QM”) shouted over from the A&E building...that we should move the dead to that building. I cannot recall what the QM’s name was but he was a Major from 1PWRR. As the A&E building was over 100 metres away from the hospital ward the same three or four junior soldiers and I loaded the bodies back on to the Land Rover and the same driver drove over to the A&E building.”²⁴⁷⁷

2.1873 The Camp Abu Naji Quartermaster at the time was Captain Michael McDonald.²⁴⁷⁸ Although Captain McDonald’s memory of what had actually happened at this particular stage of that evening was fairly limited,²⁴⁷⁹ I see no reason to doubt that it was Captain McDonald who gave this instruction.

²⁴⁷¹ Private Zoumides [86/21-22]

²⁴⁷² Private Zoumides [86/22]

²⁴⁷³ Captain Douglas (ASI019627) [57]

²⁴⁷⁴ Captain Douglas (ASI019627) [58]

²⁴⁷⁵ Private Zoumides (ASI017726) [20]

²⁴⁷⁶ Private Zoumides (ASI017726) [21]

²⁴⁷⁷ Captain Douglas (ASI019628-29) [64]

²⁴⁷⁸ Captain McDonald (ASI013168) [4]

²⁴⁷⁹ Captain McDonald (ASI013174) [21] – [24]

2.1874 It appears that Captain James Rands also happened to be present when these first two dead Iraqi bodies were initially unloaded near the ward building before being reloaded into the Land Rover that evening, because he described a similar event in his written Inquiry statement.²⁴⁸⁰

2.1875 In the event, I have no doubt that, once these first two dead bodies had been reloaded into the Land Rover, all 12 dead Iraqi bodies from the Southern Battlefield were then driven to and unloaded in front of the A&E building that evening.

The unloading of the twelve dead Iraqi bodies from the Southern Battlefield at the A&E building at Camp Abu Naji on the evening of 14 May 2004

2.1876 Not surprisingly, there was some confusion in the evidence about the order in which the vehicles arrived at the Medical Centre at Camp Abu Naji that evening and the number of dead bodies that each of them contained.²⁴⁸¹ However, having regard to the totality of the evidence I have heard, seen and read, I have no doubt that the twelve dead Iraqi bodies, that had been collected by the British soldiers from the Southern Battlefield on 14 May 2004, duly arrived in two Land Rovers at the front of the A&E building at Camp Abu Naji during the evening of the same day.²⁴⁸² It seems to me very likely that the two Land Rovers arrived there with four dead bodies in one and eight dead bodies in the other.²⁴⁸³

2.1877 A further eight bodies, that had been recovered by the British soldiers from the Northern Battlefield and brought back to Camp Abu Naji on 14 May 2004, arrived at the A&E building in a single Warrior later the same evening. I deal with the arrival of the dead bodies from the Northern Battlefield, in a later part of this Report.²⁴⁸⁴ At this stage, it suffices to say that many of the witnesses, who helped unload the dead bodies from the Land Rovers that evening, also helped to unload the dead bodies from the Warrior later on. Unsurprisingly, some of the witnesses' recollection of the two events had become somewhat confused with the passage of time and, as a result, they were not always able to remember precisely which bodies they had unloaded from which vehicles.

2.1878 Inevitably, the imperfect state of some witnesses' memories, about how the events in question actually progressed that evening, also led to the evidence about the way in which the dead bodies were subsequently unloaded from each of the vehicles being somewhat inconsistent. In the paragraphs that follow, I set out what I believe to be the most likely way in which matters proceeded after the twelve dead Iraqi bodies from the Southern Battlefield arrived at the A&E building at Camp Abu Naji on the evening of 14 May 2004.

2.1879 Captain John Turner was the Commander of the Medical Troop ("Med Troop") supporting 1 PWRR. He was therefore in charge of all of the medical issues for 1PWRR.²⁴⁸⁵ On 14 May 2004, Captain Turner and a team of medical staff that he had already assembled waited in front of the A&E building for the bodies from the Southern Battlefield to arrive that evening.²⁴⁸⁶ The medical staff assembled by Captain Turner were a combination of medics, nurses and ambulance personnel attached to the 1st Battalion, Close Support Medical Regiment ("CSMR"). They had been gathered from the Accident and Emergency Centre, the Medical Ops Building and the Ward Building.

²⁴⁸⁰ Captain Rands (ASI019868) [62] – [64]

²⁴⁸¹ See e.g. Private William Wilson [88/77] and Lance Corporal Thomas (ASI011561) [41]; Captain Royston [111/47]

²⁴⁸² Major Burgess [99/96]; Captain Rands [110/78]

²⁴⁸³ See e.g. Captain Turner [102/80-81]; Corporal McLeish (ASI011253) [41]

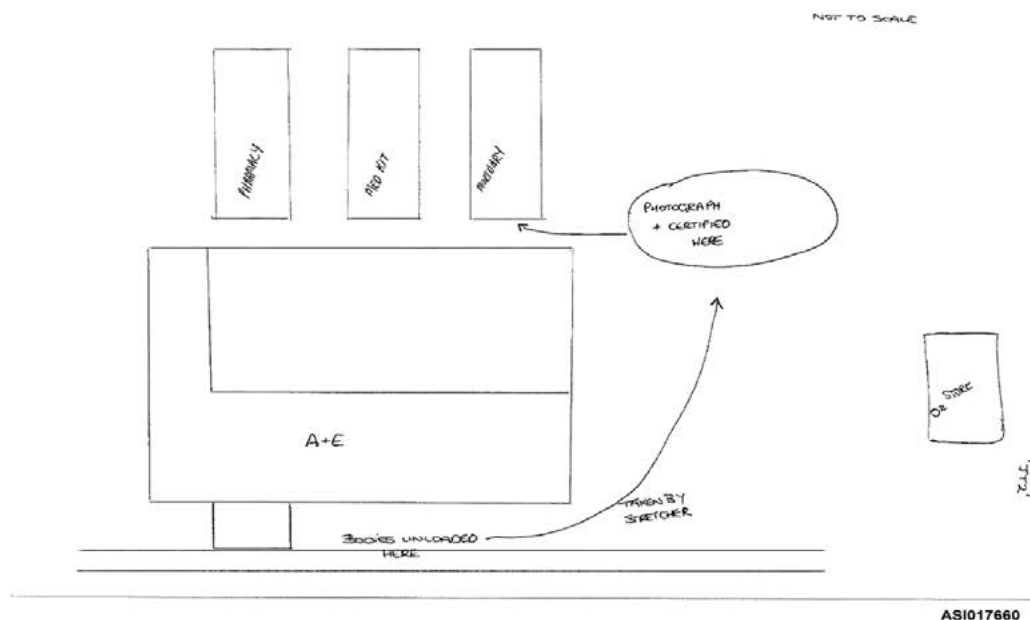
²⁴⁸⁴ See paragraph 2.1928 onwards

²⁴⁸⁵ Captain Turner (ASI017589) [6]

²⁴⁸⁶ Captain Turner (ASI017607) [94]

- 2.1880** In addition to Captain Turner and the medical personnel under his command, a number of medical assistants from the Regimental Aid Post were also present to help with the unloading of the dead bodies that evening. These medics were under the command of Captain Kevin Bailey, the Regimental Medical Officer.
- 2.1881** Major Kevin Burgess was the Senior Medical Officer attached to 1st Battalion CSMR. He recalled that it was standard operating procedure, after the occurrence of a major incident, for the medical staff on duty at the Medical Centre, together with the medical staff from the Regimental aid post, to meet together at the Medical Centre.²⁴⁸⁷
- 2.1882** A number of the witnesses remembered that, when the two Land Rovers carrying the dead bodies actually arrived outside the A&E building that evening, a crowd was gathering and so Captain McDonald had shouted that anybody without authority to be there should leave the area immediately.²⁴⁸⁸
- 2.1883** Captain Turner recalled that he and Corporal McLeish had together taken charge of unloading all the bodies from the two Land Rovers and that no-one else had assisted with the actual unloading of the bodies from the vehicles. According to Captain Turner, they had both climbed inside the vehicles and had then conducted a cursory check to ensure that the bodies were dead. In his oral evidence to the Inquiry, Captain Turner described how it had been necessary for him and Corporal McLeish to climb over some of the bodies, so that there was one of them at either end of each body, because the bodies had been stacked lengthways and he had not wanted to drag them out.²⁴⁸⁹
- 2.1884** The following sketch plan drawn by Captain Turner shows the A&E building and the marks the location at which the bodies were unloaded:

Figure 76: ASI017660



²⁴⁸⁷ Major Burgess (ASI014204) [47]

²⁴⁸⁸ Captain Myatt (ASI017082-83) [49] – [50]. Private Dalton had a similar recollection that about 12 people were asked to move away (ASI019321) [47] Corporal Drury recalled watching the unloading process. He believed that he had been told to stand back but wasn't told to disperse (ASI015927) [50]

²⁴⁸⁹ Captain Turner [102/90]

- 2.1885** According to Captain Turner, he and Corporal McLeish had lifted the bodies out of the Land Rovers, carrying them by the feet and under the arms, and had then placed them onto waiting stretchers. He did not remember any of the bodies having been dropped as they were unloaded.²⁴⁹⁰ Captain Turner said that the waiting medical staff then took the bodies on stretchers around to the back of the A&E building, between the Medical Centre and the mortuary and that it had taken four men to carry each stretcher.²⁴⁹¹
- 2.1886** However, in his written Inquiry statement, Corporal McLeish stated that he had partnered Private William Wilson, when unloading the dead bodies from the Land Rovers that evening. According to Corporal McLeish, the two of them had unloaded the dead bodies from the Land Rovers and had then carried them around to the side of the A&E building.²⁴⁹²
- 2.1887** For his part, Private Wilson remembered how he had helped Corporal McLeish to unload about eight dead bodies from a Land Rover that evening. In his written Inquiry statement, Private Wilson said that they had placed the bodies on the ground beside the Land Rover and other personnel had then taken them on stretchers to another position where they were laid out in a line.²⁴⁹³ However, in his oral evidence to the Inquiry, Private Wilson explained that, as each body was unloaded from the vehicle, it had been placed straight onto a stretcher that was already positioned there on the ground.²⁴⁹⁴
- 2.1888** As the Quartermaster at Camp Abu Naji, Captain Michael McDonald was one of the more senior military personnel present during the unloading of the dead bodies that evening. During his oral evidence to the Inquiry, he said that he had been in overall charge of the process.²⁴⁹⁵ He remembered how he had helped to unload the dead bodies, together with Captain Turner and the 1PWRR Padre, Captain Francis Myatt. Captain McDonald confirmed that there had also been some medics present at the time.²⁴⁹⁶ According to Captain McDonald, the bodies were unloaded and laid out in a straight line on the ground where the vehicles were parked.²⁴⁹⁷ He said that he did not think that stretchers had been used to move the bodies, but that Captain Myatt and Captain Turner had picked the bodies up by the shoulders and legs in order to move them.²⁴⁹⁸
- 2.1889** Captain Myatt was the Padre (the military chaplain) attached to 1PWRR. In his written Inquiry statement, Captain Myatt said that he and some of the medics had pulled the dead bodies inside each Land Rover towards the rear door of the vehicle and had then lifted them out and placed them on the ground. He said that he remembered how Captain McDonald had unloaded the first few dead bodies, but that he did not believe that he had unloaded all of them.²⁴⁹⁹
- 2.1890** In his written Inquiry statement, Captain Myatt said that he believed the dead bodies were taken straight to the rear of the medical centre, after they were unloaded from the vehicles and he went on to say this:

²⁴⁹⁰ Captain Turner [102/87/18] – [102/88/2]

²⁴⁹¹ Captain Turner (ASI017610) [108] – [109]

²⁴⁹² Corporal McLeish (ASI011253) [41]; (ASI011254) [45]

²⁴⁹³ Private Wilson (ASI020637) [35]

²⁴⁹⁴ Private Wilson [88/79-80]

²⁴⁹⁵ Captain McDonald [101/189]

²⁴⁹⁶ Captain McDonald [101/112/6-19]; (ASI013175) [25]

²⁴⁹⁷ Captain McDonald (ASI013175) [28]; [101/139]

²⁴⁹⁸ Captain McDonald (ASI013175) [28]; [101/135-136]

²⁴⁹⁹ Captain Myatt (ASI017083-84) [52]

*"I do not recall who, if anyone, was in charge of the procedure or directing what should be done. It was not something that we were trained to do and I think we probably decided what to do as we went along. I do not remember who told us to take the bodies towards the ISO container but this was the obvious place to put them."*²⁵⁰⁰

- 2.1891** Whilst some of the medical staff, such as Private John Zoumides, confirmed that they had carried dead bodies as directed, but had not taken any part in the unloading process,²⁵⁰¹ a number of the medical staff did claim to have assisted in the unloading of the dead bodies from the vehicles that evening.
- 2.1892** Thus, in his written Inquiry statement, Corporal Shaun Carroll said that he had unloaded a dead body from one of the Land Rovers. He said that the dead bodies had been stacked on top of one another face up, that he had pulled the top body off the pile and that he and another soldier had then carried it by the arms and legs.²⁵⁰²
- 2.1893** Private Keith Dalton recalled having seen the dead bodies piled on the floor in the back of the Land Rover. During his oral evidence to the Inquiry, Private Dalton described how he had helped pull two of the bodies from the back of the vehicle and lower them to the ground.²⁵⁰³ In his written Inquiry statement, Private David Otton also said that he had helped both to unload and to carry the dead bodies from the Land Rovers.²⁵⁰⁴
- 2.1894** In addition to the medical personnel who claimed to have helped unload the dead bodies from the Land Rovers that evening, Captain McDonald remembered how a soldier from one of the Land Rovers had also helped to unload a dead body from the back of the vehicle.²⁵⁰⁵ Corporal Paul Drury had a similar recollection and said that a number of the soldiers from the Land Rovers had assisted in unloading and carrying the dead bodies, as instructed by the medical officer.²⁵⁰⁶ For his part, Corporal Carroll remembered that there had been some soldiers present in the back of the Land Rovers with the bodies.²⁵⁰⁷
- 2.1895** According to Lieutenant Raymond Bowden, a number of soldiers from the ambulance troop, commanded by Captain Turner, had unloaded the bodies from the Land Rovers that evening. Lieutenant Bowden said that he believed the original intention had been that the medical team should deal with unloading the dead bodies, but that the ambulance troop soldiers had already started unloading them before this could take place.²⁵⁰⁸
- 2.1896** Unsurprisingly, the Inquiry was provided with a number of different accounts by the various witnesses about how the dead bodies were actually unloaded that evening. Some of witnesses even disagreed with Captain Turner's recollection that stretchers had been used during the unloading process.

²⁵⁰⁰ Captain Myatt (ASI017083) [52]

²⁵⁰¹ Private Zoumides (ASI017727) [25]

²⁵⁰² Corporal Carroll (ASI016063) [52]

²⁵⁰³ Private Dalton (ASI019322) [50]; [86/66-68]

²⁵⁰⁴ Private Otton (ASI010189) [33]

²⁵⁰⁵ Captain McDonald [101/132/21] – [133/25]; (ASI013175) [29]

²⁵⁰⁶ Corporal Drury (ASI015927) [48] – [49]

²⁵⁰⁷ Corporal Carroll (ASI016062) [46]

²⁵⁰⁸ Lieutenant Bowden (ASI013505) [56]

- 2.1897** Thus, Private John Zoomides said that he and another soldier had carried the dead bodies by the feet and under the arms, without the assistance of a stretcher.²⁵⁰⁹ Corporal Carroll had a similar recollection,²⁵¹⁰ as did Privates Keith Dalton²⁵¹¹ and David Otton.²⁵¹²
- 2.1898** In his written Inquiry statement, Corporal Paul Drury said that, while he was watching the dead bodies being unloaded from one of the Land Rovers that evening, he had seen how two soldiers had moved a dead body by each taking hold of an ankle and then reaching under the body in order to carry it by holding it just above the ankle and by the arm.²⁵¹³
- 2.1899** In his oral evidence to the Inquiry, Private Peter Berman described how he had carried a dead body by holding it under the armpits, whilst another soldier had held the legs. According to Private Berman, they had not used a stretcher and he had not seen any other dead bodies in the area where they placed the dead body on the ground. Accordingly, he assumed that he had been the first to have placed one of the dead bodies on the ground in that particular area.²⁵¹⁴
- 2.1900** It seems to me very likely that, at some stage during the process of unloading the dead bodies, it became apparent that stretchers were needed to carry the bodies to somewhere appropriate, out of view of the road. According to Captain Myatt, at first he and some of the medics had pulled the dead bodies in the Land Rovers towards the rear door of the vehicle, before lifting them out and placing them on the ground near where the vehicles were halted. However, Captain Myatt went on to explain that, after they had unloaded a few of the dead bodies, they realised that it was going to be necessary to move the bodies further, as follows:
- “After moving two or three bodies in this manner, I recall stating that this was a pointless exercise as we were going to have to move the bodies twice because they were lying in full view of the road. I asked for stretchers to be brought from the Medical Centre. This was done (I do not recall who did it) and we were able to move each body from the back of the vehicle onto a stretcher and then straight to the back of the Medical Centre. The bodies that had already been unloaded were taken down the side of the Medical Centre as the others were coming off the Land Rovers.”*²⁵¹⁵
- 2.1901** Captain Myatt said that he had then he acted as stretcher bearer in order to carry the dead bodies to the area behind the A&E building and outside the mortuary. According to Captain Myatt, each stretcher had been carried by two people.²⁵¹⁶
- 2.1902** During her oral evidence to the Inquiry, Private Amy Preston described how she had been given the job of bringing stretchers to the Land Rovers, in order to help with the process of unloading the dead bodies that evening, although she could not remember where the stretchers had come from.²⁵¹⁷
- 2.1903** Some of those who had helped to unload the dead bodies from the Land Rovers that evening, remembered how they had used stretchers at some point during the process. Thus, both Lance Corporal Gareth Wilson and Lance Corporal James Gadsby recalled that stretchers had

²⁵⁰⁹ Private Zoomides (ASI017727) [25]

²⁵¹⁰ Corporal Carroll (ASI016063) [52]

²⁵¹¹ Private Dalton (ASI019322-23) [50]; [86/66-68]

²⁵¹² Private Otton (ASI010189) [33]

²⁵¹³ Corporal Drury (ASI015927-28) [53-56]

²⁵¹⁴ Private Berman [107/27/20] – [28/11]; [107/32/6] – [33/5]

²⁵¹⁵ Captain Myatt (ASI017084) [52]

²⁵¹⁶ Captain Myatt (ASI017085) [56]

²⁵¹⁷ Private Preston [90/112 – 118]

been used that evening.²⁵¹⁸ In his written Inquiry statement, Lance Corporal Gadsby said that he had helped lift some of the bodies out of the Land Rovers, but he could not remember whether they had been placed straight onto stretchers or whether they had been placed on the ground first and then moved onto stretchers afterwards.²⁵¹⁹

2.1904 Lieutenant Raymond Bowden remembered having seen stretchers being taken to the rear of the Land Rovers and bodies being placed directly on them.²⁵²⁰ During her oral evidence to the Inquiry, Private Amy Preston said that she had helped unload dead bodies from the Land Rovers and that she believed the bodies had been placed directly on stretchers that were already there on the ground.²⁵²¹

2.1905 In his written Inquiry statement, Private Mark Sugden said that he had helped unload the dead bodies off the vehicle and straight onto a stretcher. According to Private Sugden, the dead bodies were pulled under the arms and by the legs in order to manoeuvre them out of the vehicle and on to the stretcher.²⁵²²

2.1906 It seems to me very likely that some of the dead bodies were moved twice as part of the unloading process; first being placed just a few metres from the front of the A&E building and then being moved to the rear of the building, as described by Captain Myatt. A number of witnesses gave evidence to the effect that they had placed the dead bodies in this initial location. Thus, Corporal Carroll remembered that the dead body he had unloaded was placed immediately on the ground outside the A&E.²⁵²³ Private Zoumides also recalled that the bodies he unloaded were lined up at outside the front entrance of the A&E.²⁵²⁴

2.1907 However, it is clear that, although some of the dead bodies may have been temporarily placed outside the front of the A&E building, at some stage shortly afterwards these bodies were moved to the rear of the A&E building and placed next to one another in a line. Thus, Privates Amy Preston, David Otton and Mark Sugden each remembered how they had laid the dead bodies in neat rows behind the A&E building.²⁵²⁵ It is very likely that some of the last dead bodies to be unloaded from the Land Rovers that evening were carried straight to the rear of the A&E building.

2.1908 In both his written Inquiry statement and in his oral evidence to the Inquiry, Captain McDonald described how he had personally conducted a quick check of one of the dead bodies, to ensure that there were no explosives or weapons concealed on it. He said that he had done this after he had unloaded the body onto the ground and that he was not aware of any other searches having been carried out on the dead bodies at, or prior to, this stage. He said that his reason for doing this was as follows:

*"I believe I checked one of them, just to – who had chest rig on, like a webbing, that holds magazines of ammunition, just to make sure there was nothing in there that would cause any damage to anyone."*²⁵²⁶

²⁵¹⁸ Lance Corporal Wilson [93/114]. See also his recollection that a trolley or gurney was used at some point (ASI015798) [25]

²⁵¹⁹ Lance Corporal Gadsby (ASI015159) [55]

²⁵²⁰ Lieutenant Bowden (ASI013508) [69]; [90/25]

²⁵²¹ Private Preston [90/116]

²⁵²² Private Sugden (ASI010487) [34 – 36] – NB Private Sugden thought that he had worked with Private Zoumides, who did not recall the use of stretchers

²⁵²³ Corporal Carroll (ASI016063) [52]

²⁵²⁴ Private Zoumides (ASI017728) [27]

²⁵²⁵ Private Preston (ASI013332) [54]; Private Otton (ASI010189) [33]; Private Sugden (ASI010487) [34] – [36]

²⁵²⁶ Captain McDonald (ASI013176) [30]; [101/136-137] NB Lieutenant Bowden stated that he had understood that his role was to look for "signs of life" – (ASI013506) [61]; [90/17]

- 2.1909** Captain Myatt also recalled that, when one of the bodies was unloaded, a few rounds of unspent ammunition had fallen to the ground. According to Captain Myatt, the medics had been the ones who had patted down the bodies and turned out the pockets to recover any munitions.²⁵²⁷
- 2.1910** Whilst some of the dead bodies may have been checked by the medics in the manner described by Captain Myatt, it soon became apparent that a proper check was needed in order to ensure that the bodies were safe to handle. According to Private William Wilson, after some of the dead bodies had been unloaded, an RPG had been discovered when it had fallen from amongst the bodies. The unloading process was therefore halted for a short time, so that an Ammunitions Technical Officer (ATO) could be notified to come to the scene. Private Wilson said that, after this incident, the soldiers had been more cautious while unloading the remaining dead bodies.²⁵²⁸
- 2.1911** In his written Inquiry statement, Captain Turner said that he believed he had carried out a brief medical check of the bodies, at some point before they were actually unloaded from the Land Rovers that evening. According to Captain Turner it had been a brief medical check in which he checked for a pulse and made a visual assessment of the condition of the body. Captain Turner also remembered that an Ammunitions Technical Officer (ATO) had been present at the scene to ensure that any weapons and/or munitions were made safe.²⁵²⁹
- 2.1912** Lance Corporal Gareth Wilson was a member of the Joint Force Explosive Ordinance Disposal team at the time. In his written Inquiry statement, he described how he was approached by a soldier, who had knocked on the door of the Explosive Ordinance Disposal building, at some point during the evening of 14 May 2004, and had requested the ATO, because there were dead bodies that needed “clearing,” meaning that they needed to be checked for explosives and made safe. Lance Corporal Wilson said that he and another member of the disposal team had volunteered to help because the ATO, WO2 Craddock, happened to be absent at the time. They had therefore gone to the Medical Centre, where they had seen a few dead bodies laid by the side of the Medical Centre, near one or two soft skinned Land Rovers.²⁵³⁰
- 2.1913** According to Lance Corporal Wilson, he then checked the bodies that had already been unloaded, by making sure that they did not have any explosives on them, whilst the other soldier set about clearing the AK47s that were with the other dead bodies. Lance Corporal Wilson said that he did not believe he had found anything of interest on any of the bodies, although he remembered having then taken over the task of clearing the AK47s, because he was concerned that it was not being done in a sufficiently safe manner.²⁵³¹
- 2.1914** Lance Corporal Wilson said that, after he had cleared these dead bodies, another Land Rover had arrived. He helped to unload the dead bodies from this Land Rover and had then cleared them in the same manner as before. He explained that he had decided that it was unnecessary to clear them before the bodies were actually unloaded, because they posed a low risk. He confirmed that, as before, he had found nothing of interest on any of the bodies.²⁵³²
- 2.1915** It is likely that the soldier who accompanied Lance Corporal Wilson to the Medical Centre was Sergeant Jason Shepherdson. In his written Inquiry statement, Sergeant Shepherdson said

²⁵²⁷ Captain Myatt (ASI017085) [55]

²⁵²⁸ Private Wilson (ASI020638) [36]; [88/81]; [88/91]

²⁵²⁹ Captain Turner (ASI017609) [107]

²⁵³⁰ Lance Corporal Wilson (ASI015794-95) [11] – [14] NB Lance Corporal Wilson accepted that technically he had not been qualified to do this job. The only one qualified to clear bodies at the time had been WO2 Craddock [93/118]

²⁵³¹ Lance Corporal Wilson (ASI015796) [17] – [19]

²⁵³² Lance Corporal Wilson (ASI015797) [21] – [24]

that a runner from the Ops room had requested EOD assistance and that he had gone with another soldier who he believed to be Corporal Allen. According to Sergeant Shepherdson, when he reached the Medical Centre, he could see dead bodies piled on top of one another in the back of a Land Rover. He said that the medical officer advised him that the bodies in the Land Rover needed to be checked for grenades and/or booby traps. He had therefore carried out a risk assessment and then started to search the bodies. He said that he believed he had done this with Corporal Allen, although it seems likely that he was, in fact, referring to Lance Corporal Wilson.²⁵³³ According to Sergeant Shepherdson, they had lifted each body from the back of the Land Rover (normally one holding the shoulders and the other holding the feet) and laid it on the ground. Sergeant Shepherdson said that they had then inspected each dead body on the ground, by giving it a pat down and by removing such items as bandoliers and munitions. He went on to say that two medics had then taken away the bodies on stretchers to the Medical Centre.²⁵³⁴

2.1916 It is clear that, when the dead bodies arrived outside the A&E building at Camp Abu Naji in the rear of the Land Rovers on the evening of 14 May 2004, they had been stacked on top of one another.²⁵³⁵ According to Captain Francis Myatt, the dead bodies had been stacked on top of one another both on and between the rear seats of the vehicles.²⁵³⁶ In his oral evidence to the Inquiry, Private William Wilson said that the dead bodies had been piled on top of one another and that some of them had become entangled, because rigor mortis had set in.²⁵³⁷

2.1917 Having regard to the totality of the evidence I have heard, seen and read, I am quite sure that none of the soldiers, who were involved in unloading the dead from the Land Rovers that evening, deliberately inflicted any further damage on the bodies. As Captain Myatt said during his oral evidence to the Inquiry, the soldiers took care to unload the dead bodies in as dignified a manner as possible. Nevertheless, as Captain Myatt himself accepted, there was a certain amount of vigorous or robust handling involved in the process of unloading the bodies, such as tugging and pulling in order to manoeuvre the bodies out of the vehicles.²⁵³⁸ As a result, a number of the soldiers described incidents that occurred during the process of unloading the bodies, in which it is possible that accidental further damage may have been caused to the bodies in question.

2.1918 Corporal McLeish recalled an incident in which he had been “*jabbed with a bone from a fracture,*” while he had been removing one of the bodies from the Land Rover.²⁵³⁹ During his oral evidence to the Inquiry, he explained that this had occurred as he took hold of the body by the upper arm.²⁵⁴⁰

2.1919 In his written Inquiry statement, Corporal McLeish also said that some of the bodies had to be dragged and that he thought it was possible that further damage may have been done to the bodies as a result, as follows:

“The bodies were heavy and as we were dragging them out of the vehicles it is possible that further damage was done to them. By this I mean that if the shoulder of a body had been dislocated and we pulled on a body’s arm to remove him from the vehicle, further damage may have been done to the dislocated shoulder. I recall an instance

²⁵³³ Sergeant Shepherdson (ASI023284) [21] – [25]

²⁵³⁴ Sergeant Shepherdson (ASI023285-86) [27] – [28]

²⁵³⁵ Corporal McLeish (ASI011253) [41]

²⁵³⁶ Captain Myatt (ASI017082-83) [49] – [50].

²⁵³⁷ Private Wilson [88/82]

²⁵³⁸ Captain Myatt [107/113]; [107/122]

²⁵³⁹ Corporal McLeish (ASI011254) [45]

²⁵⁴⁰ Corporal McLeish [78/24-25]

*where we pulled a body out and bumped his head on the tail of the Land Rover. This was not intentional and it did not cause any physical damage to the body. I do not recall any other such instances.*²⁵⁴¹

2.1920 As I have already stated,²⁵⁴² Captain Turner described how he and Corporal McLeish had been obliged to climb over the dead bodies in the back of the Land Rover in order to unload them that evening. He explained that this had been because the bodies were stacked lengthways in the vehicle and they did not want to drag the bodies out. During his oral evidence to the Inquiry, Captain Turner accepted that it was possible that this might have caused further but unintentional damage to the bodies.²⁵⁴³

2.1921 In his written Inquiry statement, Private Keith Dalton described an incident that had occurred when he was lifting a dead body from the back of one of the Land Rovers that evening. As he explained:

*"I took hold of the body by his shoulders and pulled him back in the Land Rover, and then put an arm under his legs. The other soldier took hold of the dead man's arms, and as he did so the dead man's right arm came off."*²⁵⁴⁴

2.1922 In his oral evidence to the Inquiry, Private Dalton said that he believed the arm had become fully detached from the body, as follows:

*"It was a case of it came off, but because it was in the clothing, it just kept it where it was."*²⁵⁴⁵

2.1923 Private Dalton also recalled a second body that had become stuck with dried blood to the body underneath it and had therefore had to be pulled apart.²⁵⁴⁶

2.1924 In his oral evidence to the Inquiry, Private Mark Sugden described how the body of a large man had been dropped, because the body had become slippery from blood and perspiration, as follows:²⁵⁴⁷

"Yes, he was accidentally dropped from a – from a low level. The reason for this was he was rather – he was heavy and he was covered in blood and sweat, so he was quite difficult to grasp"

2.1925 During his oral evidence, Private Sugden explained that he did not think any extra damage had been caused to this particular body, as a result of it having been accidentally dropped, as follows:

"Q. Okay. Do you think he suffered any further injury as a result of being dropped?"

*A. No, because he wasn't dropped from a great height. He – as he slipped, I tried to get him physically as close to the ground as possible before he eventually dropped."*²⁵⁴⁸

²⁵⁴¹ Corporal McLeish (ASI011254-55) [47]

²⁵⁴² See paragraph 2.1883 above

²⁵⁴³ Captain Turner [102/90]

²⁵⁴⁴ Private Dalton (ASI019321) [49]

²⁵⁴⁵ Private Dalton [86/75/6-7]

²⁵⁴⁶ Private Dalton (ASI019321) [50]

²⁵⁴⁷ Private Sugden [93/94/6-9]

²⁵⁴⁸ Private Sugden [93/94/23-25] – [95/1-3]

2.1926 During his oral evidence, Corporal McLeish also described how a Colour Sergeant who had been present at the time had become very angry and had started shouting and swearing about how the dead Iraqis had ambushed British soldiers in spite of having been trained by them.²⁵⁴⁹ According to Corporal McLeish, the Colour Sergeant had been enraged, but Corporal McLeish dealt with the situation very sensibly and (as it seems to me) commendably, as follows:

*"I personally had a chat with him, with the colour sergeant during the process and he recalled that he – he was upset at the fact that some of the insurgents were wearing possibly chest rigs that they had issued to them. Whether he was part of the training team – that's the kind of impression I was getting: he was maybe part of the training team that had maybe trained some of these guys, because the uniforms that they were wearing as part of the issue that had been given to them during their training piece."*²⁵⁵⁰

2.1927 This particular incident seems to have been a very brief and isolated occurrence that evening. It was quickly defused by Corporal McLeish's prompt and sensible action. Although I have no doubt that the incident happened as described by Corporal McLeish, none of the other witnesses who were present at the time appear to have any recollection of it.²⁵⁵¹

The collection of the dead Iraqi bodies on the Northern Battlefield by British soldiers on 14 May 2004

2.1928 In an earlier part of this Report,²⁵⁵² I indicated that the bodies of eight deceased Iraqi men were recovered from the site of the Northern Battle on 14 May 2004 and then placed together on the ground at the collection point beside WO2 David Falconer's Warrior AIFV, WOC. Later in this Report,²⁵⁵³ I deal with the evidence relating to the identification of these dead Iraqi men and, where possible, the location at which they were killed during the battle. In the paragraphs that follow, I set out the evidence and my conclusions about how these eight bodies were transported to Camp Abu Naji from the collection point on the afternoon/evening of 14 May 2004.

2.1929 Although the evidence about which Warrior had been used to transport the bodies was not entirely unanimous, I am satisfied that all the eight dead Iraqi bodies collected from the Northern Battlefield were loaded into W22 for the journey back to Camp Abu Naji that evening. Sergeant Christopher Broome was the commander of W22 and he confirmed that the dead bodies had all been loaded into his vehicle.²⁵⁵⁴ In my view, the recollection of the commander of the vehicle concerned about such a matter is very likely to have been an accurate one.

2.1930 A number of soldiers gave evidence about their involvement in the process of loading the dead bodies into W22. In his written Inquiry statement, Sergeant Broome said that WO2 David Falconer gave him the job of loading the dead bodies into his Warrior and that he had worked alongside Private Maciou Tatawaqa, Private Lloydan Beggs and Lance Corporal Brian Wood.²⁵⁵⁵ He continued, as follows:

²⁵⁴⁹ Corporal McLeish [78/31-33]

²⁵⁵⁰ Corporal McLeish [78/31/25] – [32/1-9]

²⁵⁵¹ See e.g. Captain Turner [107/128/12] – [129/7]

²⁵⁵² See paragraphs 2.973 – 2.976

²⁵⁵³ See paragraph 2.2201 onwards

²⁵⁵⁴ Sergeant Broome (ASI022335) [94]

²⁵⁵⁵ Ibid

*"We picked the bodies up with one person holding them at each end (I cannot be more precise than this) and loaded them into the Warrior. We placed them next to each other, rather than at random. They were heavy, and we sometimes had to swing them to get them inside, given the height of the step into the Warrior. We tried to do this with as much dignity as we could. The clothes were slipping off them as these were loose fitting and we were using them to gain a purchase on the bodies. When clothes came loose we tried to pull them back into place. I can recall both Pte Rushforth and Pte Tatawaga taking care to do this."*²⁵⁵⁶

2.1931 For his part, in his written Inquiry statement, Lance Corporal Wood described how he had been involved in loading four dead bodies into a Warrior AIFV that day, as follows:

*"When we got to the Warrior a soldier was already in the back, but I do not know who this was. The man inside the vehicle would take the body under the shoulders to bring it inside the Warrior. He would then lay the body lengthways. The bodies were placed on top of each other between the seats and I think that they were all placed with their heads pointing towards the driver's position."*²⁵⁵⁷

2.1932 Private Shaun Sullivan remembered that somebody had been present inside the vehicle in order to receive the dead bodies. In his written Inquiry statement, Private Sullivan said this:

*"I and a few others helped put the bodies into a Warrior. As we were doing this, dead Iraqis were still being brought over. We would take the bodies from the soldiers carrying them and there would be someone in the vehicle to pass them over to."*²⁵⁵⁸

2.1933 The soldiers, who gave evidence about the loading of the dead bodies into the Warrior that day, all described how they had been careful to handle the bodies with as much care and dignity as was possible in the circumstances, whilst being mindful of the need to leave the scene of the battle without undue delay.²⁵⁵⁹ I have no doubt that this evidence was both truthful and accurate. I am therefore sure that none of the soldiers, who were involved in loading the dead bodies into the Warrior, deliberately ill-treated any of the dead bodies while doing so. However, given the nature and extent of the injuries that had already been inflicted on the dead bodies during the battle, it is clear that the loading process could well have increased the extent of the existing damage to at least some of the bodies in question, as illustrated by the following four incidents that occurred during the loading process that day.

2.1934 First, in his written Inquiry statement, Sergeant Christopher Broome described how and why he had removed an eye-ball, that was hanging loose from its socket, and had then placed it in the trouser pocket of the body in question, as follows:

*"I also recall that on one body the socket surrounding the right eye had been damaged so that the eye was hanging loose. I was conscious that tissue was dropping from the bodies as we moved them and wanting [sic] to minimise the extent to which we were losing parts of the bodies through doing this. I remember detaching the eye, which came loosely away with my hand, and putting it in the trouser pocket of the deceased. I did this in an effort to try to keep the body together out of respect for the dead. It might sound odd now but I did not think it correct to leave bits of the bodies on the battlefield and I did not know what else to do with the eye."*²⁵⁶⁰

²⁵⁵⁶ Sergeant Broome (ASI022336) [98]

²⁵⁵⁷ Lance Corporal Wood (ASI020745) [95]

²⁵⁵⁸ Private Sullivan (ASI015626) [105]

²⁵⁵⁹ See e.g. Private Pritchard (ASI023140) [88]; Sergeant Broome (ASI022336) [98]; Lance Corporal Rides (ASI019837) [72]

²⁵⁶⁰ Sergeant Broome (ASI022336) [96]

2.1935 During his oral evidence to the Inquiry, Sergeant Broome was asked about this particular incident and confirmed that it had occurred as described in his written Inquiry statement.²⁵⁶¹ He clearly became very emotional when giving his evidence about the incident and was obviously deeply distressed by the allegations that British soldiers had deliberately mutilated the dead bodies. I have no doubt that his evidence about the matter was both truthful and accurate and that he acted as he did for the reasons that he gave. I have no doubt that this was not an act of deliberate mutilation of a dead body, but that Sergeant Broome's reasons for acting as he did were entirely proper ones, just as he explained. However, the incident clearly demonstrates the catastrophic nature of the injuries that had been sustained by some of the dead bodies on the battlefield and the shocking condition that some of the bodies were in when they were eventually returned to their relatives the next day.

2.1936 The second incident relates to a dead body whose arm became substantially detached as it was being carried by the British soldiers. This incident was described by Captain Marcus Butlin in his written Inquiry statement, as follows:

*"The arm of one of the bodies looked like it was going to come off, as the shoulder had been injured. I took hold of the other side of the body. A soldier, who was from the Pacific Islands, lifted the side with the injured shoulder. The arm started to come off, so he grasped underneath. The arm remained attached to the body but only by a bit of flesh."*²⁵⁶²

2.1937 I have no doubt that Captain Butlin's evidence about this incident was both truthful and accurate. It is therefore clear that the body in question was not deliberately ill-treated or mutilated by the soldiers who carried it that day. However, the incident does illustrate how further damage to the dead bodies might have been caused inadvertently during the collection and/or loading processes.

2.1938 Third, in his written Inquiry statement, Private Carl Pritchard described an incident that occurred when he had helped to load one of the dead bodies into the Warrior that day, as follows:

*"I recall that the body of the overweight man that I helped place in the back of the Warrior kept rolling back towards the doors. As Warriors have two tonne hydraulic doors I was concerned that this body might get crushed once the doors were closed if it rolled too close to them so I tried to push it towards the front end of the vehicle. When I tried to move it, I put one hand underneath the head and I felt my hand go through the back of the head. I immediately pulled my hand out and realised that there was brain matter on my hand."*²⁵⁶³

2.1939 Once more, I have no doubt that this incident did not involve any form of deliberate ill-treatment of the dead body in question. On the contrary, it occurred while Private Pritchard was taking action to ensure that the dead body did not suffer any further damage while it was being transported. However, it is another example of how the processes of loading and transportation of the dead bodies might have caused further but inadvertent damage to the dead bodies.

²⁵⁶¹ Sergeant Broome [86/170-171]

²⁵⁶² Captain Butlin (ASI010456) [58]

²⁵⁶³ Private Pritchard (ASI023139-40) [87]

2.1940 Fourth, two of the British soldiers described having seen how one of the dead bodies had obstructed the hydraulic rear door of the Warrior, as it was being closed. In his written Inquiry statement, WO2 David Falconer said this:

*"The bodies that we had collected at my location were then placed inside the back of the Warriors on the floor. I did not observe this closely and I do not recall how they were arranged inside the back but I do recall that when the rear door to one of the Warriors was shut an arm was trapped as it had fallen out of the back of the Warrior. One of the soldiers, I do not recall who, had to push the arm back into the Warrior and the door did then close."*²⁵⁶⁴

2.1941 In his written Inquiry statement, Lance Corporal Damon Rides gave a similar account of this particular incident, as follows:

*"When all of the bodies were in the Warrior, LCpl Wood attempted to close the rear door. He did this electronically by pressing the open/close button at the side of the rear door of the Warrior. LCpl Wood initially had some trouble closing the door as there was a body or bodies blocking it and, when there is an obstruction, the rear door of a Warrior automatically stops closing. He therefore had to push the body or bodies further into the vehicle before pressing the button again and being able to close the door."*²⁵⁶⁵

2.1942 When he gave his oral evidence to the Inquiry, Lance Corporal Rides said that he was not sure that the soldier he had seen was actually Lance Corporal Wood, but otherwise maintained that the incident had taken place as he described.²⁵⁶⁶

2.1943 There was nothing in the evidence of either of these witnesses to suggest that the door of the vehicle actually crushed the body in question. Nevertheless, it is possible that the door might have caused some additional damage to the body in question. However, I have no doubt that the body in question was not deliberately ill-treated, although it is another example of how the dead bodies collected and transported from the Northern Battle that day might have suffered additional but inadvertent further damage.

2.1944 Once all eight bodies had been loaded into W22, it was driven back to Camp Abu Naji. During the journey back to Camp Abu Naji, W22 was commanded by Private Anthony Rushforth, driven by Private Stuart Taylor and the gunner was Private John Fowler.²⁵⁶⁷ The journey back to Camp Abu Naji on the evening of 14 May 2004 was essentially uneventful, as described in the following passage of Private Rushforth's written Inquiry statement:

*"We were delayed leaving the battlefield as one of the Challengers had broken down. We had to wait between 40 minutes and an hour for recovery to arrive. The other vehicles waited at the scene to provide protection for the broken Challenger. We then headed back in convoy to CAN. I assumed command of the vehicle for the journey back to CAN. I cannot now recall which vehicles were in the convoy, and in what order."*²⁵⁶⁸

²⁵⁶⁴ WO2 Falconer (ASI020218) [118]

²⁵⁶⁵ Lance Corporal Rides (ASI019836) [67]

²⁵⁶⁶ Lance Corporal Rides [96/5]

²⁵⁶⁷ Private Rushforth (ASI014365) [100]

²⁵⁶⁸ Private Rushforth (ASI014365) [99]

The arrival and unloading of the eight dead Iraqi bodies from the Northern Battlefield outside the A&E building at Camp Abu Naji on 14 May 2004

The arrival of the Warrior AIFV, call sign W22, outside the A&E

- 2.1945** Most of the medical staff recalled that, after the bodies had been unloaded from the Land Rovers on the evening of 14 May 2004, a Warrior AIFV containing further dead bodies had arrived outside A&E building that same evening. I have no doubt that the witnesses who believed that the Warrior had been the first vehicle to arrive at the Medical Centre that evening were all mistaken about that. Having regard to all the evidence I have heard, seen and read, I am completely sure that the arrival of Warrior AIFV W22 at the Medical Centre that evening, with eight dead Iraqi bodies from the Northern Battlefield, occurred quite some time after both the Land Rovers had arrived at the Medical Centre and unloaded the twelve dead bodies that they carried.
- 2.1946** The evidence from the military witnesses concerning the time at which W22 actually arrived outside the A&E building varied considerably, with some of the witnesses claiming that the Warrior had arrived only some 10-30 minutes after the Land Rovers,²⁵⁶⁹ whilst others believed that it had been a couple of hours later, when it was getting dark.²⁵⁷⁰
- 2.1947** Captain Turner recalled that Captain Rands had told him to expect twenty bodies and so, after the Land Rovers had been unloaded, he had waited at the front of A&E building for the rest of the bodies to arrive.²⁵⁷¹ Sergeant Major Graham Moger (Captain Turner's second in command), was stationed in the Med Troop HQ listening to the radio communications. According to Captain Turner, after the dead bodies had been unloaded from the Land Rovers, Sergeant Major Moger told him that the other bodies would not be arriving any time soon, because the Warriors were still on the battlefield and involved in a contact.²⁵⁷²
- 2.1948** The Burgess Memorandum records the arrival time of the Warrior as approximately 21:30 hours,²⁵⁷³ just over two hours after the arrival of the Land Rovers at the A&E building, and in his oral evidence to the Inquiry, Major Burgess said that he could remember that the second batch of bodies had arrived at Camp Abu Naji, approximately two to three hours after the first group.²⁵⁷⁴
- 2.1949** This also accorded with the recollection of Private Anthony Rushforth, who had travelled back to Camp Abu Naji in W22 with the dead bodies and who recalled that the Warrior had arrived back at the camp at about 21.20-22.30 hours that evening.²⁵⁷⁵ There is also an entry timed at 21:45 hours in the 1PWRR Ops Room Log which refers to "*stopping off dead*," although it is recorded as having come from W0A, rather than from W22.²⁵⁷⁶
- 2.1950** In the statement that he made to the Royal Military Police on 3 July 2004, Captain Turner also estimated that the Warrior AIFV had arrived outside the A&E building with the dead bodies at about 22:00 hours on the evening of 14 May 2004.²⁵⁷⁷

²⁵⁶⁹ Corporal McLeish [78/9/18-23]; Lieutenant Bowden [90/30]

²⁵⁷⁰ Private Otton [90/149/24] – [150/15]; Sergeant King [113/123/22] – [124/3]

²⁵⁷¹ Captain Turner (ASI017611) [115]; (ASI017612) [116] – [118]

²⁵⁷² Captain Turner (ASI017612) [116] – [119]

²⁵⁷³ MOD022556

²⁵⁷⁴ Major Burgess [99/54/7-20]

²⁵⁷⁵ Private Rushforth (ASI014368) [117]

²⁵⁷⁶ MOD018961

²⁵⁷⁷ Captain Turner (MOD019008). See also [102/84-86]. Captain Turner's RMP witness statement seems to have heavily relied upon the entry in the casualty list, which notes that 8 casualties had arrived at 22.00 hours (MOD019522)

- 2.1951** According to Captain Turner, he had stood his men down until he had received further notice that the dead bodies would be arriving shortly, whereupon the volunteers had been stood to once more.²⁵⁷⁸
- 2.1952** Private Stuart Taylor drove W22 into Camp Abu Naji that evening and then halted with a number of the other Warriors, just inside the main entrance to the camp. In his written Inquiry statement, Sergeant Christopher Broome said that, after he had dismounted from his Warrior near the main entrance, he was met by Captain Robert Wells, who told him that he was aware that there were dead bodies in W22 and that a temporary mortuary had been prepared by the Medical Centre to receive them. According to Sergeant Broome, he and Captain Wells had then walked together through the camp and guided W22 to the Medical Centre, where the doctors were waiting.²⁵⁷⁹
- 2.1953** Captain Wells also remembered that he had escorted W22 to the Medical Centre that evening and that he had done so on foot with Sergeant Broome at his request. In his written Inquiry statement, Captain Wells said that somebody in the Ops Room had told him that a Warrior loaded with dead bodies was returning to Camp Abu Naji that evening and that he was to meet it at the front gate and escort it to the Medical Centre. Captain Wells remembered that it was dark at the time and that the medical staff had required head torches.²⁵⁸⁰
- 2.1954** Private Anthony Rushforth, who had travelled back to Camp Abu Naji in W22 that evening, confirmed that Private Taylor was the driver. According to Private Rushforth, they had been instructed (probably over the radio net) to go to the Medical Centre upon arrival.²⁵⁸¹
- 2.1955** In his written Inquiry statement, Sergeant Broome described how, after W22 arrived at the A&E building, its rear door had been found to be stuck and incapable of being opened from the outside. Sergeant Broome said that Private Taylor had then volunteered to crawl through the interior of the vehicle, in order to open the rear door of the vehicle from the inside. It is clear that this would have been a very unpleasant and distressing experience, because it involved crawling over eight badly injured dead bodies in semi-darkness. So it was that, when Private Taylor exited the vehicle, after having successfully opened the door from the inside, he had run off in a very distressed state.²⁵⁸²
- 2.1956** Private Anthony Rushforth also remembered that the electronics in W22 had not been working properly, with the result that its rear door would not open. He said that it had been a choice between himself, Private Taylor and Private John Fowler as to who would have to open the door from the inside. Although he had previously thought that it was Private Fowler who had pulled "*the short straw*," by the time he came to give his oral evidence to the Inquiry, he remembered that it had actually been Private Taylor who had carried out the task. Private Rushforth also confirmed that the experience had distressed Private Taylor, who later told him that one of the bodies had been sitting up and had appeared to be "*looking*" at him.²⁵⁸³
- 2.1957** In his written Inquiry statement, Private Rushforth said that he had himself seen that one of the dead bodies appeared to be sitting up against the side of the Warrior. However, he did not think it had been put into a sitting position deliberately.²⁵⁸⁴ Private Rushforth said that he believed it must have occurred as a result of the body being shaken about on the journey

²⁵⁷⁸ Captain Turner (ASI017613) [123]

²⁵⁷⁹ Sergeant Broome (ASI022344) [125]-[126]

²⁵⁸⁰ Captain Wells (ASI013533-34) [50] – [53]

²⁵⁸¹ Private Rushforth (ASI014368) [117]

²⁵⁸² Sergeant Christopher Broome (ASI022345) [127]

²⁵⁸³ Private Rushforth (ASI014368) [119] – [120]; [91/187-188]

²⁵⁸⁴ Private Rushforth (ASI014369) [122]

back to Camp Abu Naji that evening. As Private Rushforth observed during his oral evidence to the Inquiry:

*“He would have been laid down on the seat, head inwards first and then feet second on the seat. A lot of turbulence on the road, going up a hill with the incline like this, he must have gone from this position to this position with the back door being here, I should imagine.”*²⁵⁸⁵

2.1958 In his written Inquiry statement, Private John Fowler also said that Private Taylor had volunteered to crawl over the bodies in the back of the Warrior, in order to open the rear door manually because it was stuck. Private Fowler also remembered how Private Taylor had run off, once he had succeeded in opening the door, and how he and Private Rushforth had run after him. Private Fowler went on to say that Private Taylor then explained that he had thought one of the dead bodies appeared to be alive, whereupon Private Rushforth had shouted *“one’s alive in there”*, with the result that some of the medical staff went running over to the Warrior. According to Private Fowler, Private Rushforth had then said *“they’re all fucking dead”* and had started laughing. I accept that Private Fowler was a truthful and accurate witness and that Private Rushforth did make these remarks. However, I also accept that, as Private Fowler explained in his written Inquiry statement:

*“I realise that this story will seem bad to those who were not there. However, it was just black humour – an attempt by Private Rushforth to release the tension as a way of trying to help Private Taylor, me and him deal with a horrible, distressing situation. I recall that the Medical Officer was furious at Private Rushforth for saying what he did.”*²⁵⁸⁶

2.1959 In the witness statement that he made to the Royal Military Police on 17 July 2004, Private Stuart Taylor said that, when they arrived at the A&E building, the rear door of the Warrior would not open, so he had climbed down through the gunner’s hatch, over the bodies, and had then opened the door from the inside by means of the trip switch. He went on to say that one of the bodies had appeared to be sitting up and that the body’s eyes were open. Private Taylor said that this had spooked him, so he had hit the trip switch on the rear door quickly and then climbed out of the vehicle. He confirmed that, while he had been in the back of the Warrior, he had been obliged to crawl over the dead bodies, in order to get to the switch.²⁵⁸⁷ In his written Inquiry witness statement, Private Taylor said that Private Rushforth had try to make light of the situation and had said something that made the medics panic, because it had led them to believe that one of the bodies in the rear of the Warrior might still be alive. Private Taylor described what happened, as follows:

*“Pte Rushforth was a bit of a joker and tried to make light of an unpleasant situation. Something that he said led the medics to panic as they thought that he knew that one of the bodies in the Warrior was actually alive. However, this was just a joke. I am sure that the body he was referring to was dead because I had seen the injuries.”*²⁵⁸⁸

2.1960 I am satisfied that the account given by Private Taylor, as summarised in the previous paragraph was both truthful and accurate although, unsurprisingly, he understated the distress that he undoubtedly suffered as a direct result of the experience.

²⁵⁸⁵ Private Rushforth [91/189-190]; [91/210-211]

²⁵⁸⁶ Private Fowler (ASI016046) [66] – [69]

²⁵⁸⁷ Private Taylor (MOD018922)

²⁵⁸⁸ Private Taylor (ASI020148) [17]

- 2.1961** A number of medical staff, who had assisted with the unloading of the dead bodies from the Warrior on the evening of 14 May 2004, also gave evidence about how the rear door of the Warrior had become stuck, how a soldier had been obliged to release the catch from the inside and how the experience had greatly distressed the soldier in question.²⁵⁸⁹ In the paragraphs that follow, I summarise the main features of that evidence, the substance of which I am sure was both truthful and accurate, except to the extent that I have indicated otherwise.
- 2.1962** Captain Francis Myatt said that there must have been a mechanical fault with the door, because it would not open automatically, so a Private had gone into the vehicle through the turret. Captain Myatt went on to say that he thought the soldier must have found this to be a traumatic experience, because he had run off after having opened the door.²⁵⁹⁰
- 2.1963** In his written Inquiry statement, Major Kevin Burgess also described how the Warrior had arrived at the A&E building that evening and how somebody had gone into the vehicle through the hatch, in order to unlock the rear door from the inside, before being sick at the side of the road and being comforted by another soldier.²⁵⁹¹ Lance Corporal Mark Walsh and Lance Corporal Leslie Walsh-Evans also both remembered how a soldier had opened the rear door from inside the Warrior that evening and had been sick afterwards.²⁵⁹² In his written Inquiry statement, Private Benjamin Crowley said that, as the rear door of the Warrior was opened that evening, there had been the “*horrible sight*” of blood and vomit spilling out of the back of the vehicle. Private Crowley went on to say that the soldier who opened the door of the Warrior had looked to be in a state of shock, because he was pale and disorientated.²⁵⁹³
- 2.1964** Private Malcolm Shotton also recalled that the soldier, who had opened the door from the inside the Warrior that evening, was visibly upset to such an extent that he had had to be comforted.²⁵⁹⁴ For his part, Private Mark Sugden said that the soldier who had opened the door of the Warrior from the inside was very distressed and had run away crying.²⁵⁹⁵
- 2.1965** According to Corporal William McLeish, there had been a number of dismount soldiers in the rear of W22. Corporal McLeish said that the dismounts were distressed, because they could not get out and the commander had been obliged to let them out manually from the inside. He went on to say that that three of the dead bodies were in a pile and that one had been propped up. Corporal McLeish claimed that one of the dismounts had shouted something along the lines of “*one’s alive*.” He said that this had been a reference to the propped up body, which he thought was the soldier’s idea of a practical joke. According to Corporal McLeish, Captain Turner had then checked the body and, when he discovered it was dead, he was furious that the body had been propped up.²⁵⁹⁶ In his written Inquiry statement, Corporal McLeish described what happened in the following terms:

“As the dismounts came out of the Warrior one soldier made the comment “one’s alive”, Capt Turner went up to the propped up Iraqi and checked him and gave him a shake and asked whether he was ok. Obviously at this point he realised that the Iraqi

²⁵⁸⁹ See e.g. Captain Turner (ASI017614) [126]; Lance Corporal Attrill (ASI010149-50) [21]

²⁵⁹⁰ Captain Myatt (ASI017088) [63] – [64]

²⁵⁹¹ Major Burgess (ASI014208) [57]

²⁵⁹² Lance Corporal Walsh (ASI013149) [32]; Lance Corporal Walsh-Evans (ASI015327) [59]; [104/123]

²⁵⁹³ Private Crowley (ASI018984-85) [29]

²⁵⁹⁴ Private Shotton (ASI015355) [35]

²⁵⁹⁵ Private Sugden (ASI010486) [32]

²⁵⁹⁶ Corporal McLeish (ASI011255-56) [52] – [55]; [78/15-17]

was dead, Capt Turner was furious and asked whether we knew which dismount had propped up the body.”²⁵⁹⁷

2.1966 In the event, I am completely sure that Privates Anthony Rushforth, John Fowler and Stuart Taylor were the only soldiers who travelled back to Camp Abu Naji from the Northern Battlefield in W22 that evening. In his written Inquiry statement, Private Rushforth confirmed that both he and Private Fowler had been in the turret of W22 during the journey from the Northern Battlefield, with Private Rushforth as acting commander of the vehicle and Private Fowler as the gunner.²⁵⁹⁸

2.1967 Accordingly, neither Private Rushforth nor Private Fowler had been in the rear of W22, when its rear door was opened from the inside by Private Taylor, who had been the driver of W22 that evening. The fact that there were no other dismount soldiers in the back of W22, when it arrived outside the A&E building that evening, was confirmed by a number of the medical staff, who had seen the dead bodies in the rear of the vehicle as the rear doors were opened, and who also said that there were no other infantry troops inside the vehicle.²⁵⁹⁹ Corporal McLeish’s recollection, that there had been some dismounts in the rear of W22 when it arrived outside the A&E building that evening, was therefore clearly mistaken, no doubt due to the passage of time.

2.1968 In his oral evidence to the Inquiry, Captain Turner said that he could remember that there had been a body propped up against the side of the Warrior. He described what he had seen, as follows:

“In the Land Rovers most of them were laying – laying down, although they weren’t particularly neatly put in. They were a lot more higgledy piggledy – to use your term, sir – in the Warrior, and I do remember at least one casualty looking kind of like he was propped up against the side of the vehicle.”²⁶⁰⁰

2.1969 Captain Turner explained that he could not say how the body had come to be propped up in this fashion and that he was unable to say whether it had happened as a result of it being moved about in the Warrior.²⁶⁰¹ However, like Corporal McLeish, he did remember that one of the soldiers had commented upon this body, as follows:

“I think one of the soldiers made a comment to the extent, “Oh, I think we’ve got live one”, which I felt was in very poor taste and told him so, and that was the end of that.”²⁶⁰²

2.1970 In his written Inquiry statement, Private William Wilson said that there had been a problem with the Warrior, which meant that one of the crew had been obliged to crawl through the hatch and open the rear door from the inside. Private Wilson went on to say that he could remember the crew member screaming that, before he found the switch to open the door, he had thought one of the bodies was moving. Private Wilson said that the crew member had been noticeably shaken up by the experience.²⁶⁰³ He also remembered that one of the bodies in the Warrior had actually appeared to be sitting up. According to Private Wilson, someone had shouted something like *“He’s alive”*. However, Private Wilson went on to say that he did

²⁵⁹⁷ Corporal McLeish (ASI011256) [54]

²⁵⁹⁸ Private Rushforth (ASI014362) [92]

²⁵⁹⁹ See e.g. Lance Corporal Thomas (ASI011561) [44]

²⁶⁰⁰ Captain Turner [102/90/24-25] – [91/1-5]

²⁶⁰¹ Captain Turner [102/91]

²⁶⁰² Captain Turner [102/121/7-10]

²⁶⁰³ Private Wilson (ASI020640-41) [43] – [44]

not think that this had been a practical joke, but that the person in question (he could not remember who it was) had genuinely thought that the body was still alive. During his oral evidence to the Inquiry, Private Wilson put it in this way:

“Q. So there you will see Corporal McLeish’s account is that one of the dismounts made a joke of it, that one was alive. Is that consistent with your recollection?”

A. That’s his opinion that it was a joke. I didn’t believe it was a joke.

Q. I see. Did you hear one of them shout that one of them was alive?

A. Yeah, somebody assumed that the man was alive just due to the position that he was sitting up in.

Q. So someone assumed it. Did anyone shout or say that someone was alive?

A. Somebody said, “I think he’s alive”.

Q. And do you remember who that was?

A. I can’t recall who it was.”²⁶⁰⁴

2.1971 In his written Inquiry statement, Lance Corporal Stewart Finneran described how the driver of the Warrior had been obliged to climb into his vehicle and release the rear door from the inside. Lance Corporal Finneran said that the driver had become distressed while doing this and could be heard banging on the vehicle from the inside, shouting “*get me out, get me out*” and swearing. Lance Corporal Finneran went on to say that, when the driver eventually did manage to open the rear door of the Warrior, he was shaken up and very distressed. Lance Corporal Finneran also said that he had a vague recollection of the driver saying something about one of the dead in the Warrior still being alive.²⁶⁰⁵

2.1972 In his written Inquiry statement, Lance Corporal David Lewis said that the soldier, who was given the job of entering the Warrior to open the rear door from the inside, had been provided with a pistol. However, Lance Corporal Lewis was unable to remember any further details about the matter or why the soldier had been given the pistol. According to Lance Corporal Lewis, the soldier had then entered the Warrior and opened the door from the inside.²⁶⁰⁶ In my view, it is clear from the evidence of (in particular) Privates Rushforth, Fowler and Taylor, that Private Taylor was not provided with a pistol, before entering W22 in order to open its rear door from the inside. Lance Corporal Lewis is obviously wrong about that particular detail in his evidence, perhaps because he has confused the events of 14 May 2004 with some other incident, due to the passage of time.

2.1973 As I have already indicated,²⁶⁰⁷ there is no doubt that the task of crawling through the interior of the Warrior and opening its rear doors from the inside was a very unpleasant one. I am sure that Private Taylor found this particular experience very distressing and that he was seriously affected by it. One of the dead bodies had assumed a position that made it appear as if it was sitting in the vehicle. I think this was probably the result of the body having been jolted about during the journey, rather than because it had been deliberately placed in such a posture. However, for a moment, Private Taylor genuinely thought that the body was

²⁶⁰⁴ Private William Wilson [88/91-92]

²⁶⁰⁵ Lance Corporal Finneran (ASI021786) [23]

²⁶⁰⁶ Lance Corporal David Lewis (ASI016958) [15]; [101/35]

²⁶⁰⁷ See paragraphs 2.1959 – 2.1960

still alive and this belief undoubtedly increased his already considerable distress. In all the circumstances, Private Rushforth's apparently tasteless "joke" about one of the bodies still being alive, probably served to relieve the tension of the moment.

The unloading of the eight dead Iraqi bodies from the Northern Battlefield at the A&E building at Camp Abu Naji on the evening of 14 May 2004

2.1974 A number of medics were present outside the A&E building at Camp Abu Naji, when the Warrior AIFV W22 arrived there on the evening of 14 May 2004. They were there to help with the task of unloading the eight dead Iraqi bodies from the vehicle. It is clear from the evidence I have heard, seen and read that the crew of W22 did not themselves provide any help in the unloading process.²⁶⁰⁸

2.1975 In his oral evidence to the Inquiry, Captain Michael McDonald confirmed that he had been present when Warrior AIFV W22 arrived outside the A&E building that evening. He said that he had watched the unloading of the bodies and that he believed his role to have been to deal with *"the command and control of receiving the bodies."*²⁶⁰⁹ According to Captain McDonald, stretchers had not been used at all during the unloading process.²⁶¹⁰

2.1976 Captain Turner also confirmed that there had been eight dead Iraqi bodies in the back of the Warrior AIFV. He said that the bodies had been untidily stacked in the vehicle and that they had been more tangled up than those that had arrived in the Land Rovers. He went on to say that the bodies' clothing had been loose and gave the impression that the bodies had been dragged.²⁶¹¹ In his oral evidence, Private William Wilson also described how the dead bodies in W22 had been piled on top of one another and had become entangled. According to Private Wilson, after the first few bodies had been unloaded from the Warrior, he had been obliged to climb into the back of the vehicle in order to move the rest.²⁶¹²

2.1977 During his oral evidence to the Inquiry, Captain Myatt also said that he had been present when the dead bodies were unloaded from the Warrior AIFV that evening. He said that it had taken two men to lift each body out of the vehicle and onto a stretcher. He also remembered that the bodies had been tangled up and that the unloading process involved the bodies being subjected to a certain amount of man-handling, thus:²⁶¹³

"A. There was quite a few bodies and we just kind of took a body between two people. Someone took the feet and someone took the shoulders.

Q. Were they pulled out of the back?

A. I think we tried to do it as dignified as we could but we did have to remove them.

Q. There was a certain amount of tugging?

*A. Yes."*²⁶¹⁴

²⁶⁰⁸ See e.g. Private Rushforth (ASI014369) [126]

²⁶⁰⁹ Captain McDonald [101/142]

²⁶¹⁰ Captain McDonald [101/140]

²⁶¹¹ Captain Turner (ASI017614) [130]; [102/87]

²⁶¹² Private Wilson [88/82]

²⁶¹³ Captain Myatt (ASI017089) [67]

²⁶¹⁴ Captain Myatt [107/112/24-25] – [113/1-6]

- 2.1978** In his written Inquiry statement, Lance Corporal David Thomas said that the bodies in the Warrior had been stacked on top of one another in a way that gave the impression that they had been thrown around on the journey back to Camp Abu Naji. He confirmed that it had been necessary to pull out the first few bodies by their arms and feet, but that they had been supported so that they did not fall.²⁶¹⁵
- 2.1979** Captain John Turner said that he had helped to unload some of the bodies from the Warrior, by lifting them under their armpits and knees. According to Captain Turner, stretchers were used to move the bodies after they had been unloaded.²⁶¹⁶
- 2.1980** Almost all the witnesses, who described having seen the dead bodies being unloaded from the Warrior that evening, remembered that stretchers had been used at some stage during the process. Thus, in his written Inquiry statement, Lieutenant Raymond Bowden said that stretchers had already been laid out ready, by the time the Warrior actually arrived. According to Lieutenant Bowden, the bodies had been removed from the Warrior, one at a time, and then placed on stretchers, before being taken to the rear of the A&E building.²⁶¹⁷
- 2.1981** Captain Robert Wells, who had escorted W22 to the Medical Centre that evening, remembered having seen dead bodies stacked on top of one another in the rear of the Warrior. He went on to say that the dead bodies had been unloaded from the Warrior and then placed on stretchers on the ground.²⁶¹⁸ Lance Corporal Finneran also saw stretchers being used to unload the dead bodies from the Warrior. According to Lance Corporal Finneran, the dead bodies had been laid out in the rear of the Warrior, in the foot well between the seats.²⁶¹⁹
- 2.1982** In his written Inquiry statement, Lance Corporal Mark Walsh said that he had been involved in removing the first of the dead bodies from the rear of the Warrior. He said that it had taken two people to lift the body by the arms and legs, although he was unable to remember whether he had actually taken part in that aspect of the task. According to Lance Corporal Walsh, the body had then been placed on a stretcher and he had helped carry it round to the back of the A&E building.²⁶²⁰ Lance Corporal Christopher Attrill also remembered that the bodies had been piled up in the rear of the Warrior, both on the seats and on the floor. Lance Corporal Attrill said that the bodies were then unloaded from the Warrior and placed straight on to stretchers. He confirmed that he had helped unload two of the bodies that evening.²⁶²¹
- 2.1983** According to Private Malcolm Shotton, nobody had wanted to be the first to move any of the dead bodies, so he and another soldier (possibly Lance Corporal Attrill) had stepped forward. Private Shotton said that they had each held one end of the body, carried it from the Warrior and then placed it on a stretcher.²⁶²²
- 2.1984** However, some of the witnesses did not remember stretchers having been used that evening. Thus, Corporal Robert Stoddart said that he had helped unload three or four of the dead bodies from the Warrior that evening. He described how they had held the bodies by the lower legs and under the armpits, in order to lift them out of the vehicle, and how they had then placed them directly on the ground, without the use of stretchers.²⁶²³ Captain Claire Royston

²⁶¹⁵ Lance Corporal Thomas (ASI011560-61) [40] – [45]

²⁶¹⁶ Captain Turner (ASI017614) [132]; [102/87-88]

²⁶¹⁷ Lieutenant Bowden (ASI013507) [67]; [90/32]; [90/36]

²⁶¹⁸ Captain Wells (ASI013535) [55] – [56]

²⁶¹⁹ Lance Corporal Finneran (ASI021787) [25] – [26]; [101/64-66]; [101/71-73]

²⁶²⁰ Lance Corporal Walsh (ASI013150) [35]; [91/17]; [91/19-21]

²⁶²¹ Lance Corporal Attrill (ASI010150) [24]; [97/52-57]

²⁶²² Private Shotton (ASI015356) [37] – [38]; [109/21]

²⁶²³ Corporal Stoddart (ASI018457) [16]; (ASI018458) [20]; [97/18-20]

also thought that the bodies had been pulled out of the vehicle by their legs and then laid on the ground. She did not remember stretchers having been used.²⁶²⁴ Similarly, Lance Corporal David Thomas could not remember stretchers being used during the unloading process.²⁶²⁵

2.1985 It appears that stretchers were not used to unload all the dead bodies from the Warrior. Thus, Lance Corporal Leslie Walsh-Evans said that each dead body had been unloaded from the Warrior and carried by two soldiers; some bodies had been carried on stretchers and some had been carried by hand. For his part, Lance Corporal Walsh-Evans had helped carry four of the dead bodies and, in each case, had done so with a different partner.²⁶²⁶ In his written Inquiry statement, Lance Corporal Toby Griffiths said the same thing. He described how the dead bodies had been unloaded by pairs of soldiers, who held the bodies by their feet and arms.²⁶²⁷ During his oral evidence, Lance Corporal Griffiths explained that stretchers had been used at first, but that they had stopped using stretchers after a while. He explained why, as follows:

“Q. Were stretchers used?”

A. Originally, sir, yes, they were. But then we had a very short supply of stretchers, and obviously with the nature of the injuries, they were getting quite mucky. And the resupply was quite difficult with the current climate of the operation that was going on in Iraq. So it was decided that we were just going to carry them out.”²⁶²⁸

2.1986 Although some of the witnesses said that they believed the dead bodies had been taken straight to the rear of the A&E building, once they had been unloaded from the Warrior, Captain Turner said that he had checked the bodies for signs of life, in much the same way as he had done before, when the dead bodies had been unloaded from the Land Rovers earlier that evening. According to Captain Turner, he and Corporal McLeish had checked the dead bodies for signs of life and for munitions, before the medical staff then proceeded to carry the dead bodies on stretchers to the rear of the A&E building.²⁶²⁹ Captain Turner confirmed that, as before, the ATO (“Ammunition Technical Officer”) had supervised the handling of any weapons/munitions found on the bodies as a result.²⁶³⁰

2.1987 Corporal John Penrose also recalled that Captain Turner and another doctor had checked each dead body for signs of life that evening, before a team of two soldiers then carried the bodies to the side of the A&E building on stretchers.²⁶³¹ For his part, Lieutenant Raymond Bowden recalled that, as the dead bodies were being unloaded from the Warrior, he had carried out a brief check to see whether any of them showed any signs of life.²⁶³²

2.1988 Corporal McLeish recalled having helped unload one of the dead bodies from the Warrior that evening, although did not remember having carried out any medical checks with Captain Turner. However, Corporal McLeish did remember that, as one of the bodies was being unloaded from the Warrior, he had covered it up with a poncho, because it had prominent head and neck injuries.²⁶³³

²⁶²⁴ Captain Royston (ASI012915) [50]; [111/52-53]

²⁶²⁵ Lance Corporal Thomas (ASI011560-62) [40] – [45]

²⁶²⁶ Lance Corporal Walsh-Evans (ASI015328) [62] – [64]; [104/66-67]

²⁶²⁷ Lance Corporal Griffiths (ASI011225) [40]

²⁶²⁸ Lance Corporal Griffiths [91/70/19-25]

²⁶²⁹ Captain Turner (ASI017614) [132]

²⁶³⁰ Captain Turner (ASI017614) [134]

²⁶³¹ Corporal Penrose (ASI010275) [56]; [98/13-15]

²⁶³² Lieutenant Bowden (ASI013509) [74]; [90/77-78]

²⁶³³ Corporal McLeish (ASI011257) [59]

2.1989 As I have already explained, Lance Corporal Gareth Wilson helped with the clearing of the bodies and weapons that had arrived in the Land Rovers earlier in the evening of 14 May 2004. Lance Corporal Wilson had then returned to the EOD building and does not appear to have had any further involvement with the rest of the dead bodies that evening.²⁶³⁴ However, in his oral evidence to the Inquiry, Lance Corporal David Lewis, who was also a member of the ATO²⁶³⁵ Team, recalled that at some point on the evening of 14 May 2004 he and the 1PWRR Battle Group ATO, WO2 Adrian Craddock, had been asked to go to the Medical Centre. Lance Corporal Lewis said that, as they made their way across to the Medical Centre, he had seen a Warrior AIFV approaching from his left.²⁶³⁶ He went on to describe how dead bodies had been unloaded from the Warrior, under the supervision of the Medical Officer. He said that the bodies were lifted out of the Warrior by four soldiers, each holding one of the body's limbs. The dead bodies were then placed on stretchers that had already been positioned on the ground next to the Warrior.²⁶³⁷ In his written Inquiry statement, Lance Corporal Lewis said that, after each dead body had been unloaded from the Warrior, it was then examined by the Medical Officer. He explained that he could not see what checks were actually carried out, but that he had assumed the Medical Officer was making sure that each of the men was dead. He went on to say that the stretcher, upon which the body had been placed, was then carried round to the side of the Medical Centre.²⁶³⁸

2.1990 Lance Corporal Lewis also said that he believed that each of the dead bodies had been searched, before being carried round to the rear of the A&E building. He explained that this had happened while the body was on the stretcher on the ground next to the Warrior. According to Lance Corporal Lewis, the body was searched by the soldiers who had just unloaded it from the Warrior and they would have done so by systematically patting down the body, while it was laid out on its back. Lance Corporal Lewis went on to say that WO2 Craddock had not searched any of the dead bodies and that he did not recall WO2 Craddock having said anything to those who actually did carry out the body searches that evening.²⁶³⁹ However, I am satisfied that WO2 Craddock did clear the bodies brought back from the Northern Battlefield, as described in the next paragraphs of this Report. Clearly, Lance Corporal Lewis' recollection was incorrect, perhaps due to the passage of time.

2.1991 For his part, WO2 Adrian Craddock remembered that someone had approached him in the EOD area that evening and had asked him to help clear the dead bodies. WO2 Craddock recalled that a bomb disposal operator had volunteered to help him carry out this task. WO2 Craddock recalled that there had been at least one Warrior from which dead bodies were unloaded that evening.²⁶⁴⁰ According to WO2 Craddock, the bodies were unloaded from the back of the Warrior and then placed on the ground. WO2 Craddock said that he had understood that his job had been to check each dead body thoroughly, in order to ensure that there was nothing concealed on any of the bodies. WO2 Craddock went on to say that this had included probing the inside of the mouth, but that clothes were not removed during the search process. WO2 Craddock confirmed that it had appeared to him that the bodies had been searched before arrival at Camp Abu Naji that evening. He remembered having cleared a total of 5 to 10 dead bodies altogether. He said that, once the bodies had been cleared, they

²⁶³⁴ Lance Corporal Wilson (ASI015798) [26] – [27]

²⁶³⁵ Ammunition Technical Officer

²⁶³⁶ Lance Corporal Lewis [101/9/11] – [13/6]

²⁶³⁷ Lance Corporal Lewis (ASI016958) [17] – [18]; [101/19-20]

²⁶³⁸ Lance Corporal Lewis (ASI016959) [21]; [101/24/5] – [101/28/5]

²⁶³⁹ Lance Corporal Lewis (ASI016959) [19] – [20]; [101/22-23]

²⁶⁴⁰ WO2 Craddock (ASI016715) [18]

were placed on stretchers and then taken to the Medical Centre.²⁶⁴¹ WO2 Craddock did not recall having dealt with any of the weaponry himself.²⁶⁴²

2.1992 For his part, Sergeant Jason Shepherdson described how the dead bodies had arrived in the Warrior AIFV that evening in a tangled up state. He said that he and Corporal Allen had disentangled each body and laid it on the floor of the Warrior, before lifting it out and placing on the ground. He said that they had done this by one of them holding the body by the shoulders while the other held the feet. According to Sergeant Shepherdson, he and Corporal Allen had unloaded all the dead bodies from the Warrior in this fashion. Once each body had been placed on the ground, a pat down search was carried out and any weapons, munitions and bandoliers/ammunition pouches were removed, following which the bodies were taken on stretchers to the back of the A&E building.²⁶⁴³

2.1993 In his written Inquiry statement, Lance Corporal David Lewis described how some of the clothing on the dead bodies had ridden up, exposing the bodies' legs, torsos and genitalia. He said that, in order to remedy this, the bodies' dish-dashes/clothes were pulled back down when the bodies were taken out of the Warrior.²⁶⁴⁴ For his part, Lance Corporal David Thomas said that, when he went to lift one of the bodies out of the Warrior, he had placed his hand under the body's armpit and his hand had then sunk into the body's chest cavity.²⁶⁴⁵ Lance Corporal Stewart Finneran also recalled an incident, that had occurred as he lifted a body and placed it onto a stretcher, which he described in the following terms:

*"Initially, I tried to hold the body under the right shoulder but I felt my hand go inside it and realised that there was a large, open wound. I therefore repositioned my hand towards the side of the ribcage in order to lift it out."*²⁶⁴⁶

The medical checks and photographing of the 20 dead Iraqi bodies that had been brought back to Camp Abu Naji on the evening of 14 May 2004

2.1994 Altogether, a total of 20 dead Iraqi bodies were brought back to Camp Abu Naji from the Southern and Northern Battlefields on the evening of 14 May 2004. Captain John Turner stated that all the dead bodies were taken to the rear of the A&E building, where he believed they were then certified dead by a qualified doctor, although he did not actually see this happen himself.²⁶⁴⁷

2.1995 In fact, two doctors dealt with the dead bodies, once they had been unloaded from the Land Rovers and the Warrior AIFV that evening. Captain Kevin Bailey was the Regimental Medical Officer for 1PWRR and thus the most senior member of 1PWRR's medical team. He and a number of the medics from the Regimental Aid Post were present at the Medical Centre on 14 May 2004. Captain Bailey dealt with the twelve dead Iraqi bodies from the Southern Battlefield, which had been brought to the Medical Centre in the two Land Rovers that evening. It was Major Kevin Burgess, the Senior Medical Officer at Camp Abu Naji, who dealt with the remaining eight dead Iraqi bodies, which had been brought to the Medical Centre in the Warrior AIFV, W22, later that same evening.²⁶⁴⁸

²⁶⁴¹ WO2 Craddock (ASI016717-18) [25] – [30]; [103/13-16]

²⁶⁴² WO2 Craddock (ASI016720) [38]

²⁶⁴³ Sergeant Shepherdson (ASI023291) [41] – [43]

²⁶⁴⁴ Lance Corporal Lewis (ASI016960) [27]

²⁶⁴⁵ Lance Corporal Thomas (ASI011564) [57]; [98/59-60]

²⁶⁴⁶ Lance Corporal Finneran (ASI021787) [27]

²⁶⁴⁷ Captain Turner (ASI017610) [110]- [111]

²⁶⁴⁸ Major Burgess (ASI014210) [63]; Captain Bailey (ASI015291) [102]

2.1996 Captain Bailey said that he did not personally help to unload the dead bodies from the two Land Rovers. In his written Inquiry statement, Captain Bailey corrected the term “certify,” that he had used in his 2008 statement to the Royal Military Police, and said that he understood his role had been to confirm that the bodies were dead, not formally to certify them as dead.²⁶⁴⁹ In his oral evidence to the Inquiry, Captain Bailey explained the difference, in the following terms:

*“Well, the difference now in my mind, which I probably wasn’t aware of prior to making this change, was that confirming death is simply to ensure that the person is actually dead, so verifying life extinct, whereas certification is a process whereby you are certifying the medical cause of death and issuing a certificate, which clearly we weren’t doing.”*²⁶⁵⁰

2.1997 In his written Inquiry statement, Captain Bailey described how two lines of dead Iraqi bodies had been laid out near the A&E building, close to the ISO containers. He said that there were about 6 bodies in each line.²⁶⁵¹ In the event, I have no doubt that there were a total of twelve bodies lined up on the ground outside the rear of the A&E building by this stage in the evening of 14 May 2004. These twelve bodies were the ones that had been collected on the Southern Battlefield, brought back to Camp Abu Naji in the two Land Rovers and then unloaded outside the A&E building that evening. It is worth noting that, in the contemporaneous diary entry that he made on 14 May 2004, Captain Bailey actually recorded the fact that there had been twelve bodies at this stage.²⁶⁵²

2.1998 In his Judicial Review statement, Captain Bailey said that the arrival of the dead Iraqi bodies at Camp Abu Naji on 14 May 2004 had been an unprecedented event.²⁶⁵³ There was therefore no set procedure about what to do in such circumstances and Captain Bailey did not remember having had any discussions with Major Burgess about what needed to be done. Captain Bailey was sure that he had carried out checks on the bodies, but was unable to remember exactly what this had entailed. In his earlier statement to the Royal Military Police, he said that he had looked for obvious injuries or signs of movement, that he had checked for a carotid pulse, had listened for a heartbeat with a stethoscope and had checked the pupils for light reaction. However, in his written Inquiry statement, he accepted that he was unable to remember whether he had actually carried out these checks on each of the bodies, or whether he was merely recounting the checks that he would ordinarily have carried out. In any event, he was clear that the purpose of the checks that he did carry out that evening had been in order to confirm that the bodies in question were actually dead.²⁶⁵⁴

2.1999 However, in the event, Captain Bailey was able to confirm that one of the checks he must have carried out that evening had been to check the carotid pulse, because he was able to identify himself actually carrying out this particular procedure in one of the photographs that had been taken at the time he was checking the bodies.²⁶⁵⁵

2.2000 Private Malcolm Shotton said that he had been given to understand by Captain Bailey that he was going to certify the bodies as dead and that he intended to do so by the use of an ECG monitor for two minutes, in order to check for signs of life.²⁶⁵⁶ However, it does not appear

²⁶⁴⁹ Captain Bailey (ASI015277) [45]

²⁶⁵⁰ Captain Bailey [105/29/15-21]

²⁶⁵¹ Captain Bailey (ASI015280) [55]

²⁶⁵² MOD019828

²⁶⁵³ Captain Bailey (ASI005364)

²⁶⁵⁴ Captain Bailey (ASI015282) [61]

²⁶⁵⁵ Captain Bailey (ASI015283) [65]; ASI004899

²⁶⁵⁶ Private Shotton (ASI015354) [33]; [109/17]

that Private Shotton actually saw an ECG monitor actually being used for such a purpose that evening.

2.2001 Captain Bailey confirmed that he had completed an FMed5 form²⁶⁵⁷ for each Iraqi body he confirmed was dead that evening. In his written Inquiry statement, he said that he believed that his entry on each form had recorded the time at which he actually confirmed the body in question to be dead. He went on to say that it was also possible that he had noted injuries on the forms,²⁶⁵⁸ although as he said in his oral evidence:

“Even if I had written anything about the injuries, I certainly wouldn’t have speculated on the cause of death.”²⁶⁵⁹

2.2002 At the time Captain Bailey gave his oral evidence to the Inquiry, he was unable to say what had happened to the FMed5 forms in question, although he was sure that he had not retained them personally. In his written Inquiry statement, he suggested that he might have given them to a medic in order to enter the details on the computer in the A&E,²⁶⁶⁰ although his diary entry for the 14 May 2004 suggests that when he spoke to the A&E about the matter, they had told him that the FMed5 forms were placed with the bodies.²⁶⁶¹

2.2003 It was Major Kevin Burgess who examined the remaining eight dead Iraqi bodies later that evening, after they had been unloaded from the Warrior. According to Major Burgess, he had been present in or around the Medical Centre, during the time that the first batch of bodies (i.e. those from the Southern Battlefield) had been declared dead by Captain Bailey, although Major Burgess had not actually personally witnessed this being done by Captain Bailey at the time.²⁶⁶²

2.2004 In his written Inquiry statement, Major Burgess said that there had already been a line of dead bodies on the ground, when he went to examine the second batch of bodies.²⁶⁶³ He went on to describe how he had carried out his examination of the second batch of dead Iraqi bodies. He said that he had listened to their chests with a stethoscope, in order to listen for a heartbeat, and he had also checked their pupils with a torch. He confirmed that he had been unable to find any signs of life and had therefore declared each of the eight bodies to be dead. He explained that he had not actually certified the death of any of the bodies, because that would have required a determination as to the cause of death.²⁶⁶⁴

2.2005 Major Burgess explained that there had been no specific or established policy about how the dead Iraqi bodies were to be treated and/or dealt with. So far as concerns the FMed5 forms, he had done what he believed to have been appropriate at the time, his main concern being to check that the bodies were actually dead and to treat them with dignity. As he explained during his oral evidence:

“Sir, I have no idea and no training in this. This is just ad hoc, on-the-spot thinking and that’s all I knew what to do, sir. I just was interested in the dignity of that body and making sure they weren’t alive.”²⁶⁶⁵

²⁶⁵⁷ MOD form used to record medical examinations

²⁶⁵⁸ Captain Bailey (ASI015286) [79] – [80]

²⁶⁵⁹ Captain Bailey [105/30/4-6]

²⁶⁶⁰ Captain Bailey (ASI015287-88) [32] – [33]

²⁶⁶¹ Captain Bailey (ASI015287) [84]; MOD019830

²⁶⁶² Major Burgess (ASI014209) [62]

²⁶⁶³ Major Burgess (ASI014210) [64]

²⁶⁶⁴ Major Burgess (ASI014212-13) [70] – [72]

²⁶⁶⁵ Major Burgess [99/71/10-13]

2.2006 Major Burgess went on to say that he had not known what to do with the FMed5 forms, as follows:

*"I was working with no policy to go off, sir. So the buck stopped with me, I was the senior, so people asked me what to do. I had no idea what to do, is the truth, so I just said "documents" and put a form. What happened to that form, I had no idea what to do with it, sir."*²⁶⁶⁶

2.2007 During his oral evidence, Major Burgess said that he remembered having completed an FMed5 form for each body, which was tucked into the body's clothing at that stage, and that the form was later placed in the pocket on the body bag.²⁶⁶⁷

2.2008 During his oral evidence to the Inquiry, Major Burgess said that he was unable to remember exactly what details he had recorded on the FMed5 forms,²⁶⁶⁸ although he did not think that he had noted any bodily injuries on the forms. Major Burgess went on to say that it had not occurred to him at the time that he should record the injuries to the bodies, because he was only engaged in a process of confirming the fact of death and not in certifying the cause of that death. As he explained in his oral evidence:²⁶⁶⁹

*"After examining each body, I completed an FMed5 form, which had been retrieved from the Medical Centre. I cannot recall who ordered that the FMed5s be retrieved, when the FMed5s were collected or who got them from the Medical Centre. I recall that I wrote the date and time of the examination on each form. I completed the FMed5 forms with this information as it is good practice for a doctor to keep even a simple record of any treatment given, which includes examining bodies to verify that they are dead. I do not believe that I included details of each body's injuries. I then tucked the FMed5 into the clothing of the body, such as the waistband, so that it would not blow away. I do not believe that I made a formal decision to keep the FMed5s with the bodies. It was not possible for me to identify the bodies, as there was nothing on them to assist with this, and in any event I did not have any involvement in identifying the bodies."*²⁶⁷⁰

2.2009 In his written Inquiry statement, Corporal Paul Drury recalled that the medical officer who had checked the dead bodies that evening had two medical orderlies with him, who checked each dead body for a pulse and other signs of life. According to Corporal Drury, all three medical personnel looked at each dead body together, before moving on to the next.²⁶⁷¹

2.2010 According to Lance Corporal Toby Griffiths, primary and secondary checks would ordinarily have been carried out on the dead bodies, in order to assess what might have caused or contributed to death. He went on to say that the secondary stage in the process involved the removal of clothes from the body of the deceased, in order to check the injuries. Although, Lance Corporal Griffiths said that he thought that he might have assisted with such checks on 14 May 2004,²⁶⁷² it is clear that this was not how matters did proceed that evening. I am satisfied that the dead Iraqi bodies were examined in the manner described by Captain Bailey and Major Burgess, both of whom were truthful and accurate witnesses.

²⁶⁶⁶ Major Burgess [99/70/13-18]

²⁶⁶⁷ Major Burgess [99/73]

²⁶⁶⁸ Major Burgess [99/46]; [99/48-50]

²⁶⁶⁹ Major Burgess [99/108-109]; (ASI014214) [76]

²⁶⁷⁰ Major Burgess (ASI014214-15) [76]

²⁶⁷¹ Corporal Drury (ASI015930) [63]

²⁶⁷² Lance Corporal Griffiths (ASI0112270) [45]

2.2011 Although, as Major Burgess recorded in his draft journal, it is apparent that the documentation *“should have been better,”*²⁶⁷³ it seems to me that this is a conclusion very much drawn with the benefit of hindsight. Given the wholly unprecedented nature of what happened that evening, it is not surprising that there was no established procedure for dealing with the dead Iraqi bodies in these circumstances. I am therefore satisfied that there is no appropriate basis for criticising the shortcomings of the *ad hoc* way in which matters actually did proceed that evening.

2.2012 In his written Inquiry statement, Captain Francis Myatt described how he had tried to ensure that the dead bodies were presented in a dignified manner and so as to give the appearance of being at rest. He said that he had therefore taken steps to straighten the limbs on the bodies.²⁶⁷⁴ He also remembered that, while he was doing this, a doctor (or perhaps more than one) had checked the bodies for signs of life, by carrying out basic procedures like checking for a pulse.²⁶⁷⁵ According to Captain Myatt, the first batch of bodies had still been laid out on the ground, when the Warrior AIFV had arrived with the further batch of dead bodies.²⁶⁷⁶ Captain Myatt went on to say that the dead bodies from the Warrior were then laid out in a long line, next to the dead bodies which had already been unloaded from the Land Rovers.²⁶⁷⁷

2.2013 Captain James Rands was the Battle Group Intelligence Officer (“IO”) for 1PWRR. Having followed the events of the Battle of Danny Boy as they unfolded on 14 May 2004, Captain Rands was aware that both live detainees and the bodies of dead Iraqis were being brought back to Camp Abu Naji that evening. Following a conversation with Captain Charles Curry, the 1PWRR Operations Officer, it was Captain Rands’ understanding that the reason, for bringing the dead Iraqi bodies back to Camp Abu Naji that evening, had been to ascertain whether *“Bravo 1”* was amongst the Iraqi dead and that he was to check the dead bodies to see whether that was indeed the case.²⁶⁷⁸ Captain Rands also said that he thought that he was to search the dead Iraqi bodies, to see whether there was anything of intelligence value to be found, although he did not believe he had been given specific instructions about this particular aspect of the matter.²⁶⁷⁹ As he said during his oral evidence to the Inquiry:

*“I can’t imagine a scenario in which you would be photographing the enemy dead and not searching through their pockets.”*²⁶⁸⁰

2.2014 Captain Rands also said that he had not actually been expressly instructed to photograph the bodies, but he went on to say that, as with his decision to carry out a search of the bodies, it had seemed to him to be the appropriate thing to do in the circumstances. As he explained:

*“It would allow the photographs to be shown to other Intelligence personnel, who would not see the bodies in person, but may be assisted in their work by having photographs of those killed in the battle. I considered taking the photographs to be an ordinary part of intelligence gathering and record keeping, as my role often involved taking photographs (albeit not of dead bodies), showing them to others for intelligence purposes and storing them.”*²⁶⁸¹

²⁶⁷³ MOD032535

²⁶⁷⁴ Captain Myatt (ASI017086) [57] – [59]

²⁶⁷⁵ Captain Myatt (ASI017087) [60]

²⁶⁷⁶ Captain Myatt (ASI017088) [61]

²⁶⁷⁷ Captain Myatt (ASI017089) [68]

²⁶⁷⁸ Captain Rands (ASI019865) [51] – [53]

²⁶⁷⁹ Captain Rands (ASI019866) [55]

²⁶⁸⁰ Captain Rands [110/48/14-16]

²⁶⁸¹ Captain Rands (ASI019866) [54]; [110/41-42]

2.2015 In his written Inquiry statement, Captain John Turner said that, whilst he was waiting for the first batch of bodies to arrive that evening, Captain Rands had come to the Medical Centre because he wanted to photograph the bodies. Captain Turner went on to say that he had told Captain Rands that the bodies would be taken round to the back of the A&E building, so that they could be certified dead. He said that he had told Captain Rands that he could photograph the bodies after this had been done.²⁶⁸²

2.2016 In his written Inquiry statement, Captain Rands described how he had been present when the dead Iraqi bodies had been unloaded from the two Land Rovers that evening and then laid out in a line on the ground next to one another at the side of the A&E building.²⁶⁸³ He said that he believed he had begun to search the bodies, while more bodies were still being added to the line,²⁶⁸⁴ and that he had found nothing of any intelligence value, apart from one identity card.²⁶⁸⁵

2.2017 Captain Rands described how he had searched the bodies by patting them down, starting from the head, and by turning out their pockets. He said that he had not removed any clothing from the bodies. He went on to say that, after he had completed his search of the bodies, he had then photographed each of the bodies, taking a picture of the face, body and anything found during the search.²⁶⁸⁶ He said that the reason for taking the photographs was to help with identification, record keeping and to give an impression of the height and build of the person in question.²⁶⁸⁷

2.2018 Captain Rands said that he had decided to use his own personal camera in order to take the photographs that evening. In his oral evidence to the Inquiry, he explained his reasons for doing so, as follows:

*"I knew how to use it. It was a decent quality camera. The int cell owned – or didn't own, it was responsible for two decent quality Nikon cameras, one of which was broken and the other of which was in CIMIC House. Now, there were some patrol cameras. I don't remember any of them being available, but evidently one of them must have been available because Nick Collins used it. But yes, it was just the logical thing to do."*²⁶⁸⁸

2.2019 In his written Inquiry statement, Captain Rands said that others had been there, while he was searching and photographing the dead bodies that evening. Thus, Captain Rands said that a medical officer had been present at the scene that evening, confirming death and filling in forms.²⁶⁸⁹ This recollection on the part of Captain Rands accorded with the evidence of Captain Bailey and Major Burgess, who both remembered that the Intelligence Officer had been photographing the dead bodies, while they were carrying out their medical checks on the bodies.²⁶⁹⁰ Captain Rands also remembered that Captain Myatt had been present at the scene that evening and that he had been praying.²⁶⁹¹

²⁶⁸² Captain Turner (ASI017608) [96]

²⁶⁸³ Captain Rands (ASI019870) [69]

²⁶⁸⁴ Captain Rands (ASI019870) [73]

²⁶⁸⁵ Captain Rands (ASI019871) [74] – [76]; This appears to have been the ID card for Sa'd Abdullah Mohsen Katafa Al-Ma'loukhi (deceased 27)

²⁶⁸⁶ In the case of Hassan Radhi Khafeef Al-Keemy Al-Aosi (deceased 9), Captain Rands did not take a photograph of his face.

²⁶⁸⁷ Captain Rands [110/92-94]

²⁶⁸⁸ Captain Rands [110/57/7-15]. Nb – Sergeant Grant recalled seeing the intelligence officer with what he mistakenly believed was a Polaroid camera [109/124]

²⁶⁸⁹ Captain Rands (ASI019872) [78]

²⁶⁹⁰ Captain Bailey (ASI015284) [71]; Major Burgess [99/47]

²⁶⁹¹ Captain Rands (ASI019872) [79]

- 2.2020** In his written Inquiry statement, Captain Rands described how somebody had come along at some stage that evening and had also tried to photograph the dead bodies that evening. According to Captain Rands, this particular person did not have a proper reason for being there and was therefore told to move away. Captain Rands went on to say that he did not think that this person had actually managed to photograph any of the dead bodies.²⁶⁹²
- 2.2021** According to Captain Myatt, Captain Rands had tried to take photographs of the bodies as they were being unloaded from the Land Rovers that evening. Captain Myatt claimed that he had told Captain Rands to wait, because he did not think it was the best place to take the photographs and that it was important to get the bodies unloaded as soon as possible.²⁶⁹³ During his oral evidence, Captain Myatt said that he had been concerned about the fact that Captain Rands was taking photographs of the dead bodies and that he was not happy about it. He described how he had spoken to Captain Rands, in order to find out why he was taking the photographs, and how he had been told that they were trying to identify any “*major players*” amongst the dead.²⁶⁹⁴
- 2.2022** After the twelve bodies from the Southern Battlefield had been moved to the rear of the A&E building and photographed by Captain Rands, he then returned to the intelligence cell, where he downloaded the photographs of the dead on to his personal laptop computer.²⁶⁹⁵ Captain Rands said that he had been informed later that evening that a further batch of bodies were arriving at the medical centre and so he had returned there. Captain Rands confirmed that the bodies were unloaded from the vehicle and once more laid out in a line on the ground. Captain Rands went on to confirm that he had searched and photographed the second batch of dead bodies in the same way as he had done earlier and that, while he was doing so, a medical doctor had been going through the process of confirming the death of the bodies in question.²⁶⁹⁶ Captain Rands confirmed that he had then proceeded to download the photographs he had taken of the second batch of bodies that evening on to his personal computer in the same way as before.²⁶⁹⁷
- 2.2023** During the Judicial Review proceedings considerable attention was given to the very unusual and apparently suspicious circumstances in which Captain Rands had later disposed of this and another personal computer on to which he had loaded these photographs and other information. However, as Mr Patrick O’Connor QC very properly accepted during the course of the concession that he made on behalf of the Iraqi Core Participants on 20 March 2014, the suspicion that Captain Rands had brought upon himself by acting as he did was dissipated by the detailed forensic investigation of the photographs that had been undertaken by the Inquiry.²⁶⁹⁸ As explained below, those investigations established that the photographs were authentic and that that they had been taken on the date, at the time and in the circumstances suggested by Captain Rands. In those circumstances, it is clear that the way in which Captain Rands later disposed of his personal computers does not come within the ambit of the Inquiry’s Terms of Reference. I therefore propose to say no more about it.
- 2.2024** The Inquiry was provided with a total of 57 photographs that had been taken by Captain Rands of the dead Iraqi bodies on the evening of 14 May 2004.²⁶⁹⁹ The Inquiry analyst considered

²⁶⁹² Captain Rands (ASI019872) [80]

²⁶⁹³ Captain Myatt (ASI017084-85) [54]; [107/124]; [107/133-134]

²⁶⁹⁴ Captain Myatt [107/112]

²⁶⁹⁵ Captain Rands (ASI019877) [88] – [91]

²⁶⁹⁶ Captain Rands (ASI019879) [97] – [98]

²⁶⁹⁷ Captain Rands (ASI019881) [102]

²⁶⁹⁸ Patrick O’Connor QC [167/207-208]

²⁶⁹⁹ See (ASI016223)

these photographs, examining the metadata and other evidence in order to determine the time at which the photographs were taken, the order in which the photographs were taken and the positions in which the bodies had been lying in relation to one another.

2.2025 The Inquiry analyst concluded that the photographs were taken in two distinct batches. The local times between which the first batch of photographs was taken on 14 May 2004 were 19:39 hours to 20:06 hours.²⁷⁰⁰ The second batch of photographs was taken between 22:11 hours to 22:16 hours local time on the same day.²⁷⁰¹ These times were consistent with the evidence, as summarised above, that the twelve dead Iraqi bodies from the Southern Battlefield had arrived at about 19.15 hours on 14 May 2004 and that the other eight dead Iraqi bodies from the Northern Battlefield had arrived at about 21.30 hours to 22.00 hours on the same day.²⁷⁰² In the event, I have no doubt that the photograph timings are accurate and that they were not altered retrospectively.²⁷⁰³

2.2026 Furthermore, the Inquiry Analyst concluded that the photographs of the first batch of bodies were taken without a flash, which accorded with Captain Rands' evidence (and the evidence of others), that the first batch of photographs had been taken while there was still enough natural light for the flash not to be activated.²⁷⁰⁴

2.2027 Captain Rands said that he had quickly realised that Bravo 1 was not among the dead, but that he had nevertheless photographed all the bodies, because he thought that the photographs would provide useful intelligence information.²⁷⁰⁵ He went on to say that he had had a vague recollection of having sent electronic copies of the photographs, in an official capacity, to Captain Timothy Spoor at Basrah Palace, to HUMINT, to the Commanding Officer and to Brigade Intelligence.²⁷⁰⁶

Other military evidence with regard to the taking of photographs of the dead Iraqi bodies at Camp Abu Naji on the evening of 14 May 2004

2.2028 The majority of the military witnesses present during the unloading of the bodies confirmed that it was Captain Rands, the Intelligence Officer, who had taken the photographs of the dead Iraqi bodies at Camp Abu Naji on 14 May 2004. However, there were a small number of witnesses who said that it was a member of the Royal Military Police who had taken the photographs that evening.

2.2029 According to Private Mark Sugden, a member of the Royal Military Police had photographed the dead Iraqi bodies, while they were laid out on the ground at the rear of the A&E building. Private Sugden said that there had been two Royal Military Police officers there (one taking the photographs and the other making notes). He went on to say that he had recognised they were Royal Military Police from their badges.²⁷⁰⁷ Corporal Paul Drury also said that he believed the person taking the photographs of the dead bodies that evening had been a Royal Military Police officer,²⁷⁰⁸ as did Lance Corporal Leslie Walsh-Evans.²⁷⁰⁹

²⁷⁰⁰ (ASI022167) – (ASI022172)

²⁷⁰¹ (ASI022172) – (ASI022176)

²⁷⁰² Cross reference to earlier paragraphs

²⁷⁰³ See Captain Rands [110/64-65]

²⁷⁰⁴ Captain Rands [110/103/17-23].

²⁷⁰⁵ Captain Rands (ASI019880) [100]; [110/42]

²⁷⁰⁶ Captain Rands (ASI019882) [106] – [108]; [110/69]; [110/125]

²⁷⁰⁷ Private Sugden [93/96]; (ASI010489) [41]

²⁷⁰⁸ Corporal Drury (ASI015930) [64]

²⁷⁰⁹ Lance Corporal Walsh Evans (ASI015327) [61]

2.2030 In his written Inquiry statement, Lance Corporal Mark Walsh described how, after the bodies had been unloaded from the Warrior that evening, a Royal Military Police officer had approached him at the back of the A&E building and had asked him to hold a torch, while he photographed the dead bodies. Lance Corporal Walsh said that he knew that the officer was a member of the Royal Military Police because he had introduced himself as such.²⁷¹⁰ However, when Lance Corporal Walsh came to give his oral evidence to the Inquiry, he was uncertain whether the officer had introduced himself as a member of the Royal Military Police, but said that he had believed that to have been the case because of the rank slides that he had been wearing at the time.²⁷¹¹

2.2031 As it seems to me, it is clear that these various witnesses actually mistook Captain Rands for a Royal Military Police officer that evening. This may well have been because they simply assumed that the Royal Military Police would be there in such circumstances and that the RMP would be responsible for carrying out such tasks as photographing the bodies. In any event, having regard to the evidence of Captain Rands himself, which I accept was both truthful and accurate, as well as all the other military witnesses, I have no doubt that it was Captain Rands who took the only photographs of the twenty dead Iraqi bodies at Camp Abu Naji on the evening of 14 May 2004.²⁷¹²

2.2032 Furthermore, during his oral evidence to the Inquiry, Sergeant John Grant, who was a member of the Royal Military Police and present at Camp Abu Naji on 14 May 2004, confirmed that after considering whether the Royal Military Police should take any photographs of the dead bodies that evening, it had been decided not to do so.²⁷¹³

2.2033 In his written Inquiry statement, Sergeant Jason Shepherdson said that he could remember that a female medic near the Medical Centre had taken some photographs of the dead Iraqis that evening, as follows:

*"I do remember a female medic near the Medical Centre, taking photos of the dead when they were lined up outside the Medical Centre. I saw her taking the photos and asked one of the medics who came to collect one of the bodies what was happening and he said that they were taking photos for medical identification. I could tell that she was a medic by how she was dressed. Medics tended to wear t shirts and combat trousers and this is what she was wearing. She appeared to be taking "mug shots" of the dead and also "birds eye" shots i.e. stood over the body and looking down. As stated above, I knew that the bodies had been brought back for identification purposes. The bodies appeared to be photographed one by one after they were carried over to the Medical Centre."*²⁷¹⁴

2.2034 Unfortunately, Sergeant Shepherdson did not give oral evidence to the Inquiry because he was only prepared to travel to the United Kingdom in order to do so pursuant to arrangements which were unacceptable to the Inquiry. Although this attitude on his part was less than satisfactory, I have no reason to doubt the general accuracy of his written Inquiry statement. However, in my view, this particular recollection on his part was clearly a mistaken one. None of the other military witnesses who had been present at the scene made any reference to any such occurrence. It seems to me likely that Sergeant Shepherdson has confused the events of 14 May 2004 with some other and separate occasion.

²⁷¹⁰ Lance Corporal Walsh (ASI013150) [36]

²⁷¹¹ Lance Corporal Walsh [91/22-25]

²⁷¹² See e.g. Lance Corporal Gadsby [60/88-89]; Captain Douglas [81/100]; Captain Myatt [107/109]

²⁷¹³ Sergeant Grant [109/131]

²⁷¹⁴ Sergeant Shepherdson (ASI023290) [38]

- 2.2035** Corporal William McLeish also remembered having seen a soldier taking some photographs of the dead bodies that had been removed from the vehicles and placed by the A&E building. He said that he had told the soldier to stop immediately, but did not recall having taken any further action about the matter.²⁷¹⁵
- 2.2036** According to Private Malcolm Shotton, the dead Iraqi bodies had already been placed in body bags, which then had to be unzipped so that the bodies could be photographed. He said that he had been told by Lance Corporal Christopher Attrill that an Intelligence Officer had photographed the dead bodies when they were in the body bags and that Lance Corporal Attrill had been obliged to open the body bags to enable him to do this.²⁷¹⁶
- 2.2037** For his part, Lance Corporal Attrill said that he did not see any the dead bodies being photographed that evening, nor did he think that he had actually seen bodies placed in the body bags, although he had heard afterwards that this had happened.²⁷¹⁷ I am therefore satisfied that Private Shotton was mistaken in his recollection about this matter, perhaps due to the passage of time. I have no doubt that the dead Iraqi bodies were photographed that evening, while they were lined up on the ground outside the A&E building, as described by Captain Rands. In fact, the actual photographs of the bodies themselves clearly show that the bodies had not been placed in body bags at this stage.
- 2.2038** In his written Inquiry statement, Captain John Turner also said that Captain Rands had taken further photographs of some of the dead Iraqi bodies on the morning of 15 May 2004, in particular of those who appeared to be professional soldiers.²⁷¹⁸ However, when he came to give his oral evidence to the Inquiry, Captain Turner conceded that he might have been mistaken and said that he was not particularly confident about it.²⁷¹⁹ In my view, Captain Turner was right to make that concession, because I am sure that he was, in fact, mistaken about the matter.
- 2.2039** Corporal William McLeish described how the medics had received a briefing from WO2 Graham Moger on 15 May 2004, in which they had been instructed to hand over their cameras, because rumours had surfaced about the unauthorised taking of photographs of the dead Iraqi bodies, as follows:

“We were told to hand in our cameras if we had taken any photographs on either 14 or 15 May 2004. We were told that there were rumours that photos had been taken of mutilated bodies. I do not know where these rumours originated from. I did not mention the soldier I had seen taking photographs as he was not from the medical unit. Our briefing on 15 May 2004 only concerned the medical section. We were not told any further details other than our cameras were going to be taken away for analysis, I did not take any photographs on the 14 and 15 May 2004 at CAN and I do not recall handing in my camera or anyone else from the BLM²⁷²⁰ handing their camera in.”²⁷²¹

- 2.2040** Corporal John Penrose had a similar recollection, but said that he believed that it had been Captain Turner who had taken the personal cameras from the medical staff.²⁷²² Lance Corporal Simon Robinson also remembered that it was Captain Turner who had asked

²⁷¹⁵ Corporal McLeish (ASI011263) [82]; [78/22-23]

²⁷¹⁶ Private Shotton (ASI015358) [45]; [109/31]

²⁷¹⁷ Lance Corporal Attrill [97/62]; [97/70]

²⁷¹⁸ Captain Turner (ASI017621) [163]

²⁷¹⁹ Captain Turner [102/105-107]

²⁷²⁰ Blue Light Matrix – the military ambulance section

²⁷²¹ Corporal McLeish (ASI011263) [85]. See also [78/21-24]

²⁷²² Corporal Penrose (ASI010268) [22]

people to surrender their cameras, although he believed that this might have been some months later.²⁷²³

2.2041 For his part, WO2 Moger remembered that the medics had been asked to hand in their cameras. He said that this was done as a precautionary measure and they had been instructed to do so by the Battle group. As he explained:

*“It was as a precaution. I – at no stage did I think or did I ever see anybody taking any photographs.”*²⁷²⁴

2.2042 Captain Turner also recalled that one of the reasons that he and WO2 Moger had conducted checks of the ISO container, during the night of 14/15 May 2004, had been to make sure that no photographs were taken. As he said in his oral evidence to the Inquiry:

*“There was some controversy, sir, at the time over trophy photographs and that sort of thing. There had been some – some publicity in the Mirror, I believe, around that sort of time, about controversial photographs, and it was just part of the sort of process. It was a very unusual situation, twenty bodies –”*²⁷²⁵

2.2043 As it seems to me, the order to collect cameras was, in all the circumstances, a sensible and necessary precautionary measure, taken out of an abundance of caution in order ensure that there was no dissemination or retention of any inappropriate photographs that might have been taken of the dead Iraqis.

The storage of the twenty dead Iraqi bodies at Camp Abu Naji overnight on 14/15 May 2004

2.2044 It is clear from all the evidence that the second batch of eight bodies from the Northern Battlefield were lined up on the ground behind the A&E building, next to the twelve bodies from the Southern Battlefield, which had been unloaded from the two Land Rovers earlier that evening.²⁷²⁶ After the bodies had been checked by a doctor (Captain Bailey for the first twelve bodies and Major Burgess for the remaining eight) and photographed (by Captain Rands), it was decided that they should be placed in body bags before moved into the refrigerated ISO container for storage overnight.

2.2045 Captain Michael McDonald explained that he had counted the dead Iraqi bodies while they were still lined up outside the A&E building and before they were moved into the ISO container for overnight storage. He said that he was “*certain*” that there had been a total of twenty dead bodies.²⁷²⁷ I have no doubt that his evidence about this was both truthful and accurate. Private William Wilson also confirmed that he had counted the dead Iraqi bodies before they had been moved into the ISO container that evening and that there had been twenty of them. Again, I accept that this evidence was both truthful and accurate. In his oral evidence to the Inquiry, Private Wilson explained his reason for counting the dead bodies that evening, as follows:²⁷²⁸

²⁷²³ Lance Corporal Robinson (ASI020930) [82]

²⁷²⁴ WO2 Moger [108/42]

²⁷²⁵ Captain Turner [102/97/4-9]; [102/141-142]

²⁷²⁶ See e.g. Captain Rands (ASI019879) [98]; Major Burgess (ASI014211) [66]

²⁷²⁷ Captain McDonald [101/148]

²⁷²⁸ Private William Wilson [88/84-86]

"I was a junior soldier and it was the first time I had ever seen anything like that, so it was just for my own memory."

2.2046 Captain Myatt said that he had been the one responsible for requesting that body bags be obtained from the Quartermasters stores. He said that he had decided to do this because he did not want the bodies to be laid out uncovered and because he considered it more respectful to put the bodies into body bags. He went on to say that he believed that the bodies had been put in the body bags once they had all been photographed; it had not been done in stages. According to Captain Myatt, the medics had placed each body inside a body bag and had then carried them to the mortuary (i.e. the refrigerated ISO container). Captain Myatt did not remember precisely how the bodies had been stored inside the ISO, but thought that they had just been placed on the floor.²⁷²⁹

2.2047 For the most part, the medical staff involved in taking the bodies to the ISO container remembered that the dead bodies had been placed straight into body bags, without being cleaned first.²⁷³⁰ In his written Inquiry statement, Lance Corporal Phillip Gascoyne said that he had been instructed to clean the bodies at some stage during the evening of 14 May 2004,²⁷³¹ but when he came to give his oral evidence to the Inquiry he said that he might have cleaned the bodies on the 15 May 2004.²⁷³²

2.2048 A number of the medics who gave evidence to the Inquiry described how they had put the dead Iraqi bodies into body bags that evening. Thus, Private William Wilson gave the following typical account of how the dead bodies were placed inside the bags on the evening of 14 May 2004:

*"The bodies were lifted into the body bags in a similar manner to which they had been moved, that is to say with one person lifting at the shoulders and another at the feet before placing the body down into the body bag. I recall that placing the bodies in body bags was difficult in some cases as rigor mortis had begun to set in. As I have stated above, I noticed that it had begun to set in on the bodies from the Warrior even prior to their being unloaded. As such it was necessary to manipulate some of the bodies in order to place them in the body bags. The body bags were then zipped up after the bodies were placed inside."*²⁷³³

2.2049 Private Wilson then helped to move the dead bodies into the ISO container. He was unable to remember whether they had carried the bodies on stretchers, but believed that at least two people would have carried each body. According to Private Wilson, the bodies were placed on top of one another in the ISO container, because there was insufficient space for them to be laid out side by side.²⁷³⁴

2.2050 Private Zoumides gave a similar account of placing the bodies into the body bags:

*"Each body was lifted by two CMTs,²⁷³⁵ one holding the feet and another holding under the arms, and placed into a body bag which was then zipped up. The bodies were not wrapped in anything before being placed into the body bags."*²⁷³⁶

²⁷²⁹ Captain Myatt (ASI017093-94) [78] – [80]; [107/104-111]

²⁷³⁰ Major Burgess (ASI014215) [78]; Corporal McLeish (ASI011261) [75]; [78/20]

²⁷³¹ Lance Corporal Gascoyne (ASI019703) [28]

²⁷³² Lance Corporal Gascoyne [100/4-5]

²⁷³³ Private William Wilson (ASI020644) [59]

²⁷³⁴ Private William Wilson (ASI020645) [61] – [63]

²⁷³⁵ Combat Medical Technician

²⁷³⁶ Private Zoumides (ASI017729) [31]

2.2051 Private John Zoumides said that he had placed the third and fourth bodies in the ISO container that evening and at that stage the bodies were laid out in a line, next to one another, within the ISO container.²⁷³⁷

2.2052 Lance Corporal Toby Griffiths also helped to put the dead bodies into the bags and then move them into the ISO container. He also remembered that that the bodies had been carried to the container by pairs of soldiers.²⁷³⁸ Corporal William McLeish also believed that the bodies had been carried to the ISO container. According to Corporal McLeish, the bodies had then been stacked in the ISO container on top of one another.²⁷³⁹

2.2053 Lance Corporal Stewart Finneran said that he believed the bodies had been taken to the ISO container on stretchers (after having been placed into individual body bags).²⁷⁴⁰ According to Lance Corporal Mark Walsh, the bodies were carried to the ISO container by pairs of soldiers. He did not think that stretchers had been used to carry the bodies. According to Lance Corporal Walsh, the bodies had been stacked on top of one another, because the ISO container did not have any shelving.²⁷⁴¹

2.2054 Private Mark Sugden also helped to put the dead bodies into the body bags and then move them to the ISO container. He said that that the bodies had been laid side by side, as follows:

“We were careful to lay the bodies out in a neat row as there was sufficient room to do this in the container and it was not necessary to pile them up on top of one another.”²⁷⁴²

2.2055 Whether the bodies were stacked or laid next to one another in the ISO container for overnight storage, it is clear that the bodies were handled with care and respect. Private William Wilson said that he did not believe that the process of putting the bodies into the body bags that evening would have caused any further damage to them.²⁷⁴³ I have no doubt that this was so.

2.2056 During his oral evidence to the Inquiry, Captain Michael McDonald said that there had not been enough body bags available for all of the bodies on 14 May 2004 and that therefore some of the bodies had been simply wrapped in sheets.²⁷⁴⁴ If that was indeed the case, it only involved a very small number of the bodies. The vast majority were placed in body bags, before being moved into the ISO container for overnight storage.

The handover of the bodies to the Iraqi community on 15th May 2004

2.2057 It became common ground that the bodies of the dead Iraqi men, who had been taken to and stored at Camp Abu Naji overnight on 14/15 May 2004,²⁷⁴⁵ were returned to members of the local community in the early afternoon of 15 May 2004. In the paragraphs that follow, I will summarise the relevant evidence and set out the conclusions of fact that I am able to make about how that handover was carried out. In doing so, I will deal with both the communications that took place between the military personnel at Camp Abu Naji and the local Iraqi community and the actual physical movement of the dead bodies in question on 15 May 2004.

²⁷³⁷ Private Zoumides (ASI017729) [32]; [86/40-41]

²⁷³⁸ Lance Corporal Griffiths (ASI011228) [49]

²⁷³⁹ Corporal McLeish (ASI011261) [75]

²⁷⁴⁰ Lance Corporal Finneran [101/77-80]

²⁷⁴¹ Lance Corporal Walsh (ASI013154) [49] – [50]

²⁷⁴² Private Sugden (ASI010491) [47]

²⁷⁴³ Private William Wilson [88/83-84]

²⁷⁴⁴ Captain McDonald [101/149-151]

²⁷⁴⁵ [167/206-207]

Communication about the bodies on the evening of 14 May 2004

2.2058 On the evening of 14 May 2004, Lieutenant Colonel Maer contacted the Iraqi Provincial Chief of Police, Abu Maythem, either through an interpreter or perhaps another person who worked for the Coalition Provisional Authority at the time.²⁷⁴⁶ Although Lieutenant Colonel Maer was unable to recall the details of the conversation, its purpose was to arrange the handover of the 20 dead bodies to the local Iraqi community the next day. Though he could not specifically recall doing so, Lieutenant Colonel Maer was confident that he would have told Abu Maythem the number of bodies that were to be handed over.²⁷⁴⁷

2.2059 Although it is not clear to what extent, if at all, it was connected to the call made by Lieutenant Colonel Maer to Abu Maythem on 14 May 2004, Abbas Jawad Atiyah Al-Saedi (witness 102), the manager of the emergency department at Al Sadr hospital in Al Amarah, said that he had been contacted by a policeman with the rank of Major from the Maysan police directorate, at around 15:00 hours to 15:30 hours on 14 May 2004.²⁷⁴⁸ In his oral evidence to the Inquiry, Abbas Al-Saedi gave the following account of what the policeman had said to him:

“He asked for ambulances and he said that they were notified about the presence of injured people at Camp Abu Naji and that they want to go bring them.”²⁷⁴⁹

2.2060 Abbas Al-Saedi went on to say that the policeman had not told him how many casualties there were, what had caused the injuries or whether there had been a battle.²⁷⁵⁰ As it happened, Abbas Al-Saedi had not been in a position to meet the policeman’s request and so he had referred him to the “quick ambulances department”.²⁷⁵¹

2.2061 Abbas Al-Saedi was unable to identify the policeman concerned²⁷⁵² and thus it has not been possible to confirm the time of the call or to establish exactly what happened next. However, although the timing of the policeman’s telephone call is apparently a mistake (it is obviously much too early in the day), I am satisfied that contact was subsequently made with the Immediate Aid Department, which was situated in the grounds of the Al Sadr Hospital at Al Amarah at the time. The Inquiry heard oral and written evidence from Adel Rahim Othair Al-Atabi (witness 175) and received written evidence from Ali Kadhim Qwita Al-Banda (witness 165), both of whom were on duty in the Immediate Aid Department on the afternoon and evening of 14 May 2004. Each recalled that it had been the other who had actually spoken to the policeman that evening.²⁷⁵³ However, I am satisfied that nothing of significance turns on the identity of the person who actually spoke to the policeman that evening.

2.2062 The extent of the information that the policeman provided to the staff at the Immediate Aid Department that evening was set out in the written Inquiry statement of Ali Kadhim Qwita Al-Banda (witness 165), in the following terms:

²⁷⁴⁶ Lieutenant Colonel Maer (ASI023593) [27]

²⁷⁴⁷ Lieutenant Colonel Maer [138/40-41]

²⁷⁴⁸ Abbas Jawad Atiyah Al-Saedi (witness 102) [44/67-69]; clearly the time given is much too early in the day, given all the known times of the relevant circumstances, such as the time of the Southern and Northern Battles and the arrival of the detainees and the dead bodies at Camp Abu Naji that evening.

²⁷⁴⁹ Abbas Jawad Atiyah Al-Saedi (witness 102) [44/69]

²⁷⁵⁰ Abbas Jawad Atiyah Al-Saedi (witness 102) [44/70]; [45/39]

²⁷⁵¹ Abbas Jawad Atiyah Al-Saedi (witness 102) [44/69]; apparently a reference to the Immediate Aid Department at Al Sadr Hospital in Al Amarah

²⁷⁵² Abbas Jawad Atiyah Al-Saedi (witness 102) [44/68]

²⁷⁵³ Adel Rahim Othair Al-Atabi (witness 175) (ASI008647) [17]; Ali Kadhim Qwita Al-Banda (witness 165) (PIL000828-29) [42]

“To my knowledge we were to collect only injured people from the camp. There had been no indication of the type of injuries involved or how many injured people there would be. We also had no idea who the injured people were. I did assume, however, that the injured people were Iraqi as we would never be called to assist British forces. They had their own paramedics to attend to them.”²⁷⁵⁴

2.2063 The evidence of Adel Rahim Othair Al-Atabi (witness 175) was similar:

“I wasn’t told anything else by Ali, just that there were injured people who needed to be taken from Camp Abu Naji by ambulance. I didn’t know, and wasn’t told how they had happened to be injured, or how they had come to be at Camp Abu Naji.”²⁷⁵⁵

2.2064 Six Iraqi witnesses gave evidence to the Inquiry (hereafter “the ambulance staff from Al Sadr hospital”) concerning the means by which they had travelled to Camp Abu Naji on the evening of 14 May 2004, apparently in three ambulances. The ambulances in question appear to have been driven by Ghazi Talib Janjoon Alhajaam (witness 145),²⁷⁵⁶ Raheem Gburi Mahmood Al-Obaidi (witness 235)²⁷⁵⁷ and Sabeeh Chekhyor Hezam Al-Dubaisi (witness 231).²⁷⁵⁸ They were accompanied by Ali Dawas Majeed Al-Saeedi (witness 166),²⁷⁵⁹ Ali Kadhim Qwita Al-Banda (witness 165)²⁷⁶⁰ and Majid Ali Hussein Al-Mulla (witness 167).²⁷⁶¹

2.2065 These witnesses described how they had spoken to an interpreter employed by the British Army when they first arrived at Camp Abu Naji that evening. Not surprisingly, their accounts about what actually happened differed in detail to some extent. However, the substance of their accounts was generally consistent. Thus, in his oral evidence to the Inquiry, Ali Dawas Majeed Al-Saeedi (witness 166) described how matters proceeded:

“I stopped and an interpreter, a translator was called in. I talked to the translator, and from his language or dialect I was able to know that he is Egyptian. I talked to him and he said, “There are three wounded people. Why did you bring two ambulances?” I said, “It’s okay, I can arrange for three injured” and I asked him about their place. He said, “They are close, they are they are on their way here, so you have to wait for ten minutes, or let’s keep it a few minutes.”²⁷⁶²

2.2066 Sabeeh Chekhyor Hezam Al-Dubaisi (witness 231) also recalled a similar conversation, in which they had been told that there would be a delay before the injured people arrived.²⁷⁶³ He also claimed to have seen three tracked military vehicles drive into Camp Abu Naji that evening, prior to this conversation.²⁷⁶⁴

2.2067 For his part, Ali Kadhim Qwita Al-Banda (witness 165) recalled how he had seen Ali Dawas Majeed Al-Saeedi (witness 166) speaking to someone from inside the camp that evening. In his written Inquiry statement, he said:

²⁷⁵⁴ Ali Kadhim Qwita Al-Banda (witness 165) (PIL000829) [46]

²⁷⁵⁵ Adel Rahim Othair Al-Atabi (witness 175) (ASI008647-48) [17]

²⁷⁵⁶ Ghazi Talib Janjoon Alhajaam (witness 145) (ASI008489) [32] – [33]

²⁷⁵⁷ Raheem Gburi Mahmood Al-Obaidi (witness 235) (ASI016012) [15]

²⁷⁵⁸ Sabeeh Chekhyor Hezam Al-Dubaisi (witness 231) (PIL001031) [23]

²⁷⁵⁹ Ali Dawas Majeed Al-Saeedi (witness 166) (ASI021952-53) [18] – [26]

²⁷⁶⁰ Ali Kadhim Qwita Al-Banda (witness 165) (PIL000830) [48]

²⁷⁶¹ Majid Ali Hussein Al-Mulla (witness 167) (ASI008607) [19]

²⁷⁶² Ali Dawas Majeed Al-Saeedi (witness 166) [46/23]

²⁷⁶³ Sabeeh Chekhyor Hezam Al-Dubaisi (witness 231) (PIL001035) [34]

²⁷⁶⁴ Sabeeh Chekhyor Hezam Al-Dubaisi (witness 231) (PIL001034) [33]

*"Ali Dawas finished speaking with the man and came back to the ambulances. He then told me to stop taking the stretcher out as the injured people had not arrived at the camp yet. They were being brought to the camp by vehicles and we would have to wait until they arrived. We did not know where these injured people were supposed to be coming from."*²⁷⁶⁵

2.2068 In his written Inquiry statement, Ghazi Talib Janjoon Alhajaam (witness 145) said:

*"I did not see the gates of the camp open but a translator and another man, who I believe were called out by the soldier, appeared outside of the gates. They approached us and stood about 2m from us all. This other man, through the translator, said he was a Doctor and that tanks would arrive at the Camp and that he would deliver the wounded to us but we were to wait. This was all he said."*²⁷⁶⁶

2.2069 Finally, in his written Inquiry statement, Majid Ali Hussein Al-Mulla (witness 167) gave the following account of the same incident:

*"At this time there was only Ali Dawas and me. I took control of the conversation with the British officer and his translator. A British soldier was standing some distances from us. I told the Army officer that the Iraqi Police had told us there were injured people at the camp. The officer told us we'd have to wait as the trucks were coming, with the wounded from the battlefield."*²⁷⁶⁷

2.2070 Thus, the evidence of these ambulance staff from Al Sadr hospital was to the general effect that, upon arriving at Camp Abu Naji on the evening of 14 May 2004, they had been told that there were injured people for them to collect, but that they had not yet arrived at the camp. They also all described how they had returned to the Al Sadr hospital later that evening, without actually having collected any injured or dead Iraqis. Their evidence was to the general effect that they had returned to Al Sadr hospital, after Camp Abu Naji came under mortar fire that evening.²⁷⁶⁸

2.2071 I have no doubt that the accounts given by these ambulance staff from Al Sadr hospital, about their unsuccessful visit to Camp Abu Naji on the evening of 14 May 2004, had a significant impact upon the local community. I am sure that it made a major contribution to the local community's commonly held belief and conclusion that Iraqi men had been detained alive by the British military on 14 May 2004 and had subsequently been unlawfully killed at Camp Abu Naji overnight on 14/15 May 2004.

2.2072 The oral evidence of Abdul Wahed Salman Hafeth Jaber Alwuhaili (witness 129), an ambulance driver at the Al Majar al'Kabir hospital, clearly demonstrates the impact of the accounts given by the ambulance staff from Al Sadr hospital, about their trip to Camp Abu Naji on the evening of 14 May 2004:

"Q. You have told us that you believe that the dead Iraqi men were alive when they were captured by the British. Do you remember saying that?"

A. Yes.

²⁷⁶⁵ Ali Kadhim Qwita Al-Banda (witness 165) (PIL000833) [67]

²⁷⁶⁶ Ghazi Talib Janjoon Alhajaam (witness 145) (ASI008491) [43]

²⁷⁶⁷ Majid Ali Hussein Al-Mulla (ASI008608) (witness 167) [24]

²⁷⁶⁸ See e.g. Ali Dawas Majeed Al-Saeedi (witness 166) [46/26]; Sabeeh Chekhyor Hezam Al-Dubaisi (witness 231) (PIL001035) [34] – [35]

Q. And the reason you believe they were executed is because they were alive when they were captured?

A. Yes.

Q. But why is it that you believe that they were alive when they were captured?

A. Because, as they told me, the ambulances were going to bring back injured people. Why, on the following day, were they dead?"²⁷⁶⁹

2.2073 In the event, I am satisfied that the six ambulance staff from Al Sadr hospital did go to Camp Abu Naji in 3 ambulances on the evening of 14 May 2004, as they said in evidence. The interpreter to whom they spoke was a civilian interpreter based at Camp Abu Naji, to whom the Inquiry has allocated the cipher, M065. M065 kept a personal diary, which covered the period of time with which this Inquiry is concerned, and the Inquiry was able to obtain a copy of that diary. M065's diary contains the following entry for the 14 May 2004:

"A serious gun battle started – 16 Iraqi dead. M013 went to do prisoners and Toby asked me to go to the gate and meet an Iraqi ambulance coming for 2 Iraqi V.S.I.²⁷⁷⁰ These were being brought here by warrior, but never materialised. This left me waiting for 3 hours at the gate but in a good position to see the comings and goings from camp."²⁷⁷¹

2.2074 It is very likely that the "Toby" in this passage is a reference to Major Richard "Toby" Walch. There are two obvious inaccuracies in this diary entry, i.e. there were more than 16 Iraqi dead and there were three Iraqi ambulances in attendance at Camp Abu Naji that evening. Nevertheless, the diary entry does corroborate both the fact that the ambulance staff from Al Sadr hospital attended Camp Abu Naji that evening and that they were told that there were some injured Iraqis on their way to Camp Abu Naji.

2.2075 The information given to the ambulance staff from Al Sadr hospital with regard to the anticipated arrival of injured Iraqis, was plainly inaccurate and there was little or no evidence about how such a misunderstanding could have occurred. One possibility (although largely speculation) is that, somehow or other, information to the effect that Haydar Al-Lami (deceased 2) and Ibrahim Gattan Hasan Al-Ismaeli (detainee 774) had both been being treated for injuries sustained in the Northern Battle, had been passed on to the Operations Room at Camp Abu Naji at some stage.

2.2076 In any event, I am quite satisfied that the various ambulance staff from the Al Sadr hospital were given to understand that a number of injured Iraqis were being brought to Camp Abu Naji that evening. Accordingly, I am equally satisfied that none of the ambulance staff in question can be criticised for having referred to that genuine understanding on their part, when giving their accounts of their unsuccessful trip to Camp Abu Naji on the evening of 14 May 2004.

2.2077 Three other Iraqi witnesses provided written and oral evidence to the Inquiry about how they had also gone to Camp Abu Naji on the evening of 14 May 2004. However, it is clear that their visit to Camp Abu Naji was not connected in any way to the circumstances that gave rise to the visit of the ambulance staff from the Al Sadr hospital.

²⁷⁶⁹ Abdul Wahed Salman Hafeth Jaber Alwuhaili (witness 129) [42/53]

²⁷⁷⁰ Very Seriously Injured

²⁷⁷¹ MOD051611

2.2078 In his written Inquiry statement, Mahud Jihaijeh Dawood Al-Mozani (witness 60) claimed that he and a number of his neighbours had gone to Camp Abu Naji on the evening of 14 May 2004. Mahud Al-Mozani said that he was trying to obtain information about his son, Abbas Mahood Jheijeh Dawood Al-Mozani (deceased 20).

2.2079 Mahud Al-Mozani described what happened, as follows:

*"I returned to my home, and then later that same day, went with others to Camp Abu Naji. I travelled to the camp by car. I wasn't alone, we travelled together, tens of us went there in taxis. I believe that whoever had a son at Camp Abu Naji went there to check on their son. I had never been to Camp Abu Naji before this date."*²⁷⁷²

2.2080 Mahud Al-Mozani said that, when they had reached a point about 50-100 metres short of the entrance to Camp Abu Naji:²⁷⁷³

*"They [British soldiers] fired at us, but I believe that they only meant to scare us and keep us away, as they fired into the air. No one was hurt by this."*²⁷⁷⁴

2.2081 Mahud Al-Mozani went on to describe what he had been able to see inside the camp:

*"At the camp, we saw members of the British Army with prisoners. There were between fifteen and eighteen of them, but I don't know the exact number. I saw them being taken from Hummers, as I stood in front of the camp gate"*²⁷⁷⁵

2.2082 He then continued:

*"I saw the prisoners from afar. The Hummers were about 50m to 100m away from me, inside the camp. I could see this as they were directly ahead of me. At the time it was dusk, but you could still see for about a kilometre. From here I heard cries coming from the prisoners. I saw the soldiers pushing them, kicking them and dragging them."*²⁷⁷⁶

2.2083 He provided the following description of the prisoners:

*"All of the prisoners I saw were hooded. I can't describe the hoods other than their having been over the prisoners [sic] heads, as I was at the gate and they were inside the camp. I was unable to recognise any of these prisoners."*²⁷⁷⁷

2.2084 Finally, Mahud Al-Mozani described the conclusions he had reached after witnessing these various matters:

*"I am sure that these people were alive when I saw them, and that some were later executed whilst others were detained and released. The people who are still alive are witnesses, and I believed they have filed for a lawsuit. I didn't see anyone executed myself. I saw prisoners, alive but I didn't see anybody executing anyone."*²⁷⁷⁸

2.2085 Bushra Sakher Kathem (witness 26), the wife of Jassem Muhammad Hamdan Darwish Al-A'mshani (deceased 7), provided both written and oral evidence to the Inquiry in which

²⁷⁷² Mahud Jihaijeh Dawood Al-Mozani (witness 60) (ASI007726) [42]

²⁷⁷³ Mahud Jihaijeh Dawood Al-Mozani (witness 60) (ASI007728) [55]

²⁷⁷⁴ Mahud Jihaijeh Dawood Al-Mozani (witness 60) (ASI007727) [50]

²⁷⁷⁵ Mahud Jihaijeh Dawood Al-Mozani (witness 60) (ASI007728) [59]

²⁷⁷⁶ Mahud Jihaijeh Dawood Al-Mozani (witness 60) (ASI007729) [64]

²⁷⁷⁷ Mahud Jihaijeh Dawood Al-Mozani (witness 60) (ASI007729) [67]

²⁷⁷⁸ Mahud Jihaijeh Dawood Al-Mozani (witness 60) (ASI007730) [69]

she described how she had gone to Camp Abu Naji on the evening of 14 May 2004. In her first written Inquiry statement, she gave an account of a relatively uneventful trip:

*"I was in shock at this time and I went to CAN with many other people who had lost someone, I cannot remember exactly how I went to CAN or who with, it may have been on foot but as I was in so much shock my memory is not good about this particular time. I cannot even remember if I was wearing my veil I was in so much turmoil. I cannot remember if I left the ID at the camp with the soldiers, or if I brought it home with me. In our society it is not acceptable for women to deal with such matters, therefore we were required to wait at home."*²⁷⁷⁹

2.2086 However, Bushra Sakher Kathem produced an additional written statement that provided more detail of her visit to Camp Abu Naji on 14 May 2004. In her additional statement, Bushra Sakher Kathem did not claim to have seen any detainees during her visit to Camp Abu Naji that evening, although she added:

*"I could see a crowd of many hundreds of people near the camp gates. There were people in the crowd that were not looking for relatives but had come to find out what was happening and to offer support to others who were looking for their loved ones. I joined the crowd and we moved directly towards the gates of the camp. We heard gun shots being fired and this caused the crowd to stop and move back a little. I believe the shots were fired by the soldiers in the camp to scare us from approaching the gates. They were not shooting at us and nobody was injured by this."*²⁷⁸⁰

2.2087 Sabrah Maryoosh Hussein (witness 28), the mother of Jassem Muhammad Hamdan Darwish Al-A'mshani (deceased 7), also described how she had gone to Camp Abu Naji on the evening of 14 May 2004.²⁷⁸¹

2.2088 Although I have a certain amount of doubt about it, I am prepared to accept that these three witnesses did go to Camp Abu Naji on the evening of 14 May 2004. However, having regard to the totality of the evidence, I am quite sure that no warning shots were fired²⁷⁸² and that none of them actually saw any detainees within the camp that evening.²⁷⁸³ To the extent that Mahud Al-Mozani and Bushra Sakher Kathem suggested otherwise, I have no doubt that they told deliberate lies. Furthermore, I have no doubt that the deliberate lies, about how a significant number of detainees had been seen alive within Camp Abu Naji that evening, contributed to and helped perpetuate the rumours and false allegations that detainees had been unlawfully killed at Camp Abu Naji overnight.

²⁷⁷⁹ Bushra Sakher Kathem (witness 26) (ASI008061) [22]

²⁷⁸⁰ Bushra Sakher Kathem (witness 26) (PIL000066-67) [2]

²⁷⁸¹ Sabrah Maryoosh Hussein (witness 28) (ASI008171) [18] – [19]

²⁷⁸² A large number of the military witnesses who were at Camp Abu Naji on the evening of 14 May 2004 were asked whether they heard shots being fired within the camp. Consistently those witnesses told me that they did not (see e.g. Private Shotton [109/72]; Major Royston [111/85]; Private Henderson [65/126]; Captain Douglas [81/117]). I am satisfied that if shots, including warning shots, had been fired at the group as alleged, they would have been heard by the soldiers nearby and the incident would have been discussed extensively within the camp.

²⁷⁸³ As explained [elsewhere in this Report – current para numbers are 3.152 – 3.163], Hamzah Almalje (detainee 772) was unloaded from the Warrior AIFV at the gate to Camp Abu Naji, however, the other eight detainees were driven straight to the Prisoner Handling Area. At 3.133 – 3.143 of this Report, I set out the available evidence regarding the layout of Camp Abu Naji. On the basis of that evidence, I am quite satisfied that Mahud Al-Mozani would not have been able to see the detainees being unloaded at the Prisoner Handling Area from the position he claimed to be at near the entrance to the camp. Furthermore, none of the nine detainees with whom this Inquiry is concerned have alleged that they had hoods placed on their heads. Accordingly, I am satisfied that the evidence given by Mahud Al-Mozani about seeing detainees finds no corroboration elsewhere in the evidence which I have seen, heard and read.

2.2089 No further events of significance, with regard to the handover of the 20 dead bodies to the Iraqi community, occurred until the morning of 15 May 2004.

The organisation of the handover and preparation of the bodies

2.2090 At 09:00 hours on 15 May 2004, the Commanding Officer's "Prayers"²⁷⁸⁴ were held at Camp Abu Naji.²⁷⁸⁵ During the meeting, it was decided that the dead Iraqi bodies would be handed back to the Iraqi community at the "Golden Arches", a well known location, just outside the entrance to Camp Abu Naji.²⁷⁸⁶

2.2091 Before being handed back to the Iraqi community, the bodies were wrapped in sheets and blood samples were taken from them. The idea of wrapping the bodies in sheets came from the 1PWRR Padre, Captain Francis Myatt. In his written Inquiry statement, Captain Myatt said this:

*"On the morning of 15 May 2004, I went early to the mortuary as I considered my duties in relation to the dead to continue until such time as they were handed over to their families. I think it would have been at some time after 9am as this is what time I would normally finish my breakfast. On the way, I went to see Capt McDonald in the Quartermaster Stores. I told him that I had been thinking about it overnight and that I thought it would be more respectful to the bodies if we wrapped them in white sheets inside the body bags. I had imagined what it would be like for the family of each of the deceased to unzip the body bag and to be immediately faced by a dead relative. I was also conscious of the damaged condition of some of the bodies and I did not want people to face this without first being prepared for it. I did not know when the bodies would be handed over to the families but I was aware that Islamic custom dictates that the dead should be buried within 24 hours so I thought it would be happening that day."*²⁷⁸⁷

2.2092 The sheets used to wrap the dead bodies were standard linen bed sheets.²⁷⁸⁸

2.2093 In his written Inquiry statement, Captain Myatt described how the bodies were wrapped in the sheets:

"Three or four of the medics who I had worked with the day before and I, then started to move the bodies from the mortuary and they were placed on the ground outside. We did not need stretchers as the bags could be carried by handles. We again did this in pairs. I do not recall who the medics were but I think one of them may have been a Sergeant. We took one body at a time out of the mortuary. A sheet was placed on the ground next to the body bag and the bag was unzipped and the body placed on the sheet. The sheet was then wrapped around the body and the body was then placed back in the bag which was zipped up. The bag was left outside as the next body was taken out of the mortuary. We did this until all the bodies had been wrapped up. We did not put them back into the mortuary until all had been done as this was the only way to make sure that we did not miss any out. I did not wrap all the bodies but I was

²⁷⁸⁴ CO's Prayers is a military term commonly used to describe the senior officers' first meeting of the day.

²⁷⁸⁵ Captain Turner (ASI017619) [155]

²⁷⁸⁶ Captain Turner (ASI017619) [155]; WO2 Moger (ASI018622) [62]; see also (ASI017664) which is a note of the meeting

²⁷⁸⁷ Captain Myatt (ASI017097) [87]

²⁷⁸⁸ Captain Turner (ASI017620) [159]

overseeing the procedure and I am sure that each was wrapped in its own individual white sheet. The bodies were not cleaned before they were wrapped.”²⁷⁸⁹

2.2094 Captain John Turner recalled the process slightly differently. He recalled that stretchers were used and that the bodies were individually cleaned with soap and water before being wrapped in sheets.²⁷⁹⁰ It therefore seems likely that each of the bodies was cleaned to some extent prior to being wrapped in a sheet.

2.2095 Lance Corporal Mark Walsh,²⁷⁹¹ Lance Corporal Simon Robinson,²⁷⁹² Private William Wilson,²⁷⁹³ Sergeant Toby Griffiths,²⁷⁹⁴ WO2 Graham Moger,²⁷⁹⁵ Captain Claire Royston,²⁷⁹⁶ Major Kevin Burgess²⁷⁹⁷ and Lance Corporal Phillip Gascoyne²⁷⁹⁸ all gave evidence that they had been involved in the wrapping process. Although there were some differences in detail, each of their accounts was broadly consistent with the process as described by Captain Myatt.

2.2096 The decision to take blood samples from the dead bodies appears to have originated from Major Kevin Burgess. He recalled how a soldier had come to the Medical Centre at Camp Abu Naji on the morning of 15 May 2004 and expressed concern that he might have become infected with Hepatitis B as a result of his exposure to blood from the dead Iraqi bodies the previous day.²⁷⁹⁹

2.2097 In response to this concern, Major Burgess sought advice from the Medical Branch in Basra. In his written Inquiry statement, Major Burgess set out the advice that he received:

“The person that I spoke to mentioned the Hepatitis B rate in Iraq, but I cannot remember what he or she said about it. However, I recall that this person advised me to take blood samples from the bodies. They suggested taking a blood sample by doing a “heart stab”, which involves inserting a long needle into the heart and leaves a needle mark on the chest. The normal amount of pressure required to take a blood sample is used, and the term “heart stab” might be misleading as one does not perform the procedure with a stabbing motion.”²⁸⁰⁰

2.2098 Major Burgess then set out to follow this advice and was assisted in the process of doing so by Captain Claire Royston. Both Major Burgess and Captain Royston recalled having attempted to perform the “heart stab” procedure on a small number of the bodies, but they were ultimately unsuccessful because they had extracted insufficient or no blood from the bodies in that way.²⁸⁰¹

2.2099 Whilst Major Burgess felt that the “heart stab” procedure would have left a needle mark on the chest of the bodies,²⁸⁰² Captain Royston could not remember any marks having been

²⁷⁸⁹ Captain Myatt (ASI017098) [90]

²⁷⁹⁰ Captain Turner (ASI017620) [158]

²⁷⁹¹ Lance Corporal Walsh (ASI013156-57) [64]

²⁷⁹² Lance Corporal Robinson (ASI020922-23) [53]

²⁷⁹³ Private Wilson (ASI020646-ASI020647) [68] – [71]

²⁷⁹⁴ Sergeant Griffiths (ASI011235) [75]

²⁷⁹⁵ WO2 Moger (ASI018620) [54] – [55]

²⁷⁹⁶ Captain Royston (ASI012922-23) [83] – [84]

²⁷⁹⁷ Major Burgess (ASI014219) [93]

²⁷⁹⁸ Lance Corporal Gascoyne (ASI019704). He also recalled that the bodies were washed prior to being wrapped in sheets.

²⁷⁹⁹ Major Burgess (ASI014217) [88]; [99/88]

²⁸⁰⁰ Major Burgess (ASI014217) [89]

²⁸⁰¹ Major Burgess (ASI014218) [91]; Captain Royston (ASI012920) [72]

²⁸⁰² Major Burgess (ASI014217) [89]

left on the bodies as a result.²⁸⁰³ However, I accept that it is possible that marks were left on the bodies and I also accept that, if any such marks were seen by relatives of the deceased or other members of the Iraqi community, they may well have caused some suspicion and uncertainty as to what had actually caused them.

2.2100 When the “heart stab” procedure proved to be unsuccessful, Major Burgess and Captain Royston took samples from the blood and bodily fluids that had collected in the body bags overnight instead.²⁸⁰⁴

2.2101 Once the bodies were wrapped and the samples taken, the bodies were replaced in their body bags and returned to the ISO container which had served as a temporary mortuary.²⁸⁰⁵

The notification given to the local community on 15 May 2004

2.2102 At some stage during the morning of 15 May 2004, appropriate notice of the arrangements for the handover of the dead bodies to the local Iraqi community was given by the British military authorities at Camp Abu Naji. The first contact that morning appears to have been a meeting that Lieutenant Colonel Maer had arranged the previous evening with the Iraqi Provincial Chief of Police, Abu Maythem. In his written Inquiry statement, Lieutenant Colonel Maer recalled the details of this particular meeting on 15 May 2004:

“The Police Chief was familiar with the background to the Danny Boy incident (his family were based in MAK²⁸⁰⁶) and we discussed the Najaf events, the call to arms and arrangements for the handover of the bodies. I do not recall any suggestion at this stage that people had been murdered at CAN. I cannot remember when I first heard about the Imam’s call to arms and the link with the Najaf mosque and it could have been in that meeting but I am not certain. I do recall that the meeting went well.”²⁸⁰⁷

2.2103 When he came to give his oral evidence to the Inquiry, Lieutenant Colonel Maer said that there was no doubt that the conversation had been about the handover of dead bodies and not about injured Iraqis. He also said that, although he could not specifically remember having done so, he believed that he would have told Abu Maythem the number of bodies involved.²⁸⁰⁸

2.2104 It appears that the next thing that happened was that Abu Maythem passed on details of the handover arrangements to the “Qaemmaqam”, a local Iraqi municipal official similar to a Mayor, who then called a meeting with Muhammad Al-Amshani, the Chief of Police of Al Majar al’Kabir. In his written Inquiry statement, Oudah Rashak Zora Al-Elayawi (witness 101) a policeman based at Al Majar al’Kabir described how he had accompanied Muhammad Al-Amshani to this meeting with the Qaemmaqam.²⁸⁰⁹

2.2105 According to Oudah Al-Elayawi (witness 101), at the meeting with the Qaemmaqam they were told that they had to go and collect some dead bodies from the British forces at Camp Abu Naji. Oudah Al-Elayawi could not remember how many bodies they had been told to collect. However, he did recall that they planned to use ambulances from Al Majar al’Kabir

²⁸⁰³ Captain Royston (ASI012920) [72]

²⁸⁰⁴ Major Burgess (ASI014219) [92]; Captain Royston (ASI012920) [72]

²⁸⁰⁵ Captain Myatt (ASI017099) [96]

²⁸⁰⁶ Al Majar al’Kabir

²⁸⁰⁷ Lieutenant Colonel Maer (ASI023594) [27]

²⁸⁰⁸ Lieutenant Colonel Maer [138/41]

²⁸⁰⁹ Oudah Rashak Zora Al-Elayawi (witness 101) (PIL000499-00) [52]

hospital to collect the bodies and to supplement them with ambulances from the Al Sadr hospital in Al Amarah.²⁸¹⁰

2.2106 It is apparent that, at this stage in the overall process, it was clear to everybody concerned that there were a number of dead Iraqi bodies to be collected from Camp Abu Naji that day (i.e. 15 May 2004). However, in the period that followed, the general understanding of the situation by the local Iraqi community appears to have become confused. That confusion was to have a significant impact on the events that followed.

2.2107 The first to be notified of what was required was the hospital in Al Majar al’Kabir. Dr Adel Saleh Majeed Al-Shawi (witness 81) was the Director of the Al Majar al’Kabir hospital. He remembered how he had been approached by Abdul Wahed Salman Hafeth Jaber Alwuhaili (witness 129) and Maytham Lafta Jasim Al-Fartoosi (witness 80) on 15 May 2004. In his oral evidence to the Inquiry, Dr Adel Al-Shawi described the conversation that then took place:

“They told me that the Qaemmaqam, Sadeq, along with the police chief, had received a call from Abu Naji Camp saying that they need an ambulance car to go collect some dead bodies from Camp Abu Naji – dead bodies that were the casualties of the incident of the day before. And the decision taken by the Qaemmaqam office was to bring those people, those dead people, to Majar Al-Kabir hospital and then give them back to their families.”²⁸¹¹

2.2108 Although it appears that Dr Adel Al-Shawi had received the correct information, he may have made a mistake about how he came to receive it, because both Abdul Wahed Salman (witness 129) and Maytham Al-Fartoosi (witness 80) denied having passed the message to Dr Adel Al-Shawi. In fact, they both recalled that they had received the information from Dr Al-Shawi himself.²⁸¹² However, nothing of significance turns on that.

2.2109 It appears that a number of different members of the staff at Al Majar al’Kabir hospital then came to hear about the message from the Qaemmaqam’s office in relatively quick succession. However, it is apparent that either the members of staff were not all given the same information or that their understanding of the message/information was not always the same.

2.2110 Thus, Maytham Al-Fartoosi (witness 80) and Ahmed Abbas Makhfe Al-Fartoosi (witness 91) both remembered having been told that dead bodies were to be collected from Camp Abu Naji.²⁸¹³ Others had gained the impression that injured Iraqis were awaiting collection from Camp Abu Naji.

2.2111 For his part, in his written Inquiry statement, Aqeel Abdul Abbas Jamol (witness 93) said:

“As far as I am concerned, no indication was made that the people taken to Camp Abu Naji were dead, I thought they were still alive, with some injured. That is what I had been led to believe by the British Forces.”²⁸¹⁴

2.2112 According to both Abdul Wahed Salman (witness 129) and Hatem Abud Abed Hassan (witness 92), the message/information had been either ambiguous or silent as to whether they were

²⁸¹⁰ Oudah Rashak Zora Al-Elayawi (witness 101) [52/95-96]

²⁸¹¹ Dr Adel Al-Shawi (witness 81) [53/62]

²⁸¹² Abdul Wahed Salman (witness 129) [42/16]; Maytham Al-Fartoosi (ASI010520) [72]

²⁸¹³ Maytham Al-Fartoosi (witness 80) (ASI010520) [72]; Ahmed Abbas Makhfe Al-Fartoosi (witness 91) [40/54]

²⁸¹⁴ Aqeel Abdul Abbas Jamol (witness 93) (ASI008471) [41]

to collect injured people or dead bodies. However, both seem to have assumed that they were to collect injured people.²⁸¹⁵

2.2113 It is not clear from the evidence how it was that the message and/or information had become confused in this way. In their written Closing Submissions, those representing the Iraqi Core Participants suggested that senior figures within the local community might have attempted to suppress news of the dead bodies at Camp Abu Naji, in order to prevent further unrest.²⁸¹⁶ I accept that this is a possibility, but it is speculation. In any event, I am satisfied that the confusion was the result of genuine misunderstanding or misapprehension on the part of the Iraqis concerned.

2.2114 According to Maytham Al-Fartoosi (witness 80), once they had learnt the approximate number of bodies to be collected from Camp Abu Naji, one of the ambulance drivers from the Al Majar al'Kabir hospital called the Al-Sadr hospital and asked them to send additional ambulances.²⁸¹⁷ As a result, the misapprehension that already existed at Al Majar al'Kabir hospital spread to the Al Sadr hospital. Thus, a number of witnesses, who had been working at the Al-Sadr hospital when the call was received that day, gave evidence that they had understood that they were being asked to help with the collection of living people.

2.2115 Adil Rahim Othair Al-Atabi (witness 175) was the manager of the ambulance unit at the Al-Sadr hospital. Although Adil Al-Atabi's recollection was that the call had come from the police, he was adamant that the message he received had been that there were injured people at Camp Abu Naji to be collected, not dead bodies.²⁸¹⁸ Adil Al-Atabi seems to have passed this message on to Mhaibes Hasan Eesee (witness 161) in identical terms.²⁸¹⁹

2.2116 Ali Dawas Majeed Al-Saeedi (witness 166) also remembered how a message had come from the police and he also recalled that the message was for the collection of wounded people, not dead bodies.²⁸²⁰ Ali Dawas Al-Saeedi went on to say that, had it been known that it was dead bodies that were awaiting collection from at Camp Abu Naji, the Police Forensic Department would have attended, not a fleet of ambulances.²⁸²¹

2.2117 In their written Inquiry statements, Hayder Faisal Manea Al Salwan (witness 144) and Sabeeh Chekhyor Hezam Al-Dubaisi (witness 231) both remembered how they had been given the job of collecting injured people from Camp Abu Naji, not dead bodies.²⁸²²

2.2118 It is therefore evident that, among the large number of medics, managers and ambulance drivers from the Al Majar al'Kabir and the Al Sadr hospitals, there were some who were aware that they were to collect dead bodies from Camp Abu Naji, but there were also many others who believed that they were to collect injured or wounded people.

Preparations at Camp Abu Naji for the handover

2.2119 At Camp Abu Naji, the necessary preparations for the handover of the bodies had been undertaken. On 15 May 2004, it was Captain Michael McDonald who took responsibility

²⁸¹⁵ Abdul Wahed Salman (witness 129) [42/40]; Hatem Abud Abed Hassan (witness 92) [24/101]; (ASI008090) [49]

²⁸¹⁶ ICP Closing Submissions [954]

²⁸¹⁷ Maytham Al-Fartoosi (witness 80) (ASI010521-22) [77]

²⁸¹⁸ Adil Rahim Othair Al-Atabi (witness 175) (ASI008652-53) [37]

²⁸¹⁹ Mhaibes Hasan Eesee (witness 161) (ASI008734-35) [16]

²⁸²⁰ Ali Dawas Majeed Al-Saeedi (witness 166) [46/29]

²⁸²¹ Ali Dawas Majeed Al-Saeedi (witness 166) [46/69]

²⁸²² Hayder Faisal Manea Al Salwan (witness 144) (ASI008113) [45]; Sabeeh Chekhyor Hezam Al-Dubaisi (witness 231) (PIL001038) [43]

for these arrangements.²⁸²³ With regard to the removal of the twenty dead bodies from the refrigerated ISO container, where they were stored, Captain McDonald said:

*"I was not directly involved in the removal of the Iraqi dead from where they had been stored overnight. I sent down a driver, whose name I cannot now recall, to collect the bodies from the morgue. He took an eight tonne Bedford truck. He then returned with the truck filled with the bodies, accompanied I believe by two medical staff."*²⁸²⁴

2.2120 The driver, to whom Captain McDonald referred in this passage of his written Inquiry statement, was Private Mark Sugden. In his written Inquiry statement, Private Sugden said this:

"At some point that morning I recall the Captain asking for a volunteer driver to help return the bodies of the Iraqi dead to the local authorities. I volunteered because I wanted to make myself as useful as I could..."

*There was a large 4 tonne Bedford truck which was presumably used for moving supplies in and out of CAN. I reversed the truck into the medical centre so that the back doors were near the ISO container."*²⁸²⁵

2.2121 There was a conflict of evidence about whether the Bedford truck actually used for this purpose was a four tonne or an eight tonne model. However, nothing turns on that.

2.2122 Although Private Sugden was the driver of the truck, it was WO2 Graham Moger who was in command of the handover process "on the ground". In his written Inquiry statement, WO2 Moger described his role as follows:

*"The QM [Captain McDonald] himself had overall responsibility for the return of the Iraqi dead. I was responsible for ensuring that the bodies were loaded onto the truck and that all were delivered to the Iraqis at the rendezvous point."*²⁸²⁶

2.2123 In his written Inquiry statement, WO2 Moger described the way in which the bodies were actually removed from the mortuary and then transported to the handover point in the following terms:

*"The medical centre's four tonne truck was backed right up to the front of the mortuary. I assisted in carrying the body bags out of the mortuary in broadly the same manner as before, and loading them onto the back of the truck. From what I witnessed, great care was taken in handling the bodies and they were treated as humanely as was possible."*²⁸²⁷

2.2124 The Inquiry was provided with the written and oral evidence of a number of the soldiers who had been present and who had helped in carrying out this task. Thus, Lance Corporal Toby Griffiths gave the following account:

"We loaded all the bodies from the ISO container on to the truck. The truck was parked in the same place that the bodies had been dropped off the previous evening..."

²⁸²³ Captain McDonald (ASI013181) [52]

²⁸²⁴ Captain McDonald (ASI013182) [55]

²⁸²⁵ Private Sugden (ASI010492) [50] – [51]

²⁸²⁶ WO2 Moger (ASI018623) [62]

²⁸²⁷ WO2 Moger (ASI018623-24) [65]

remember having to lift the bodies fairly high off the ground to load them into the truck.”²⁸²⁸

2.2125 Lance Corporal Griffiths’ account was similar to that of Lance Corporal Mark Walsh, who said this:

“We lifted each body in its body bag and carried it to the vehicle. I think that generally it took two of us to lift each body, with the exception of the heavy body which I have described above which took at least four of us to carry...

We transported the bodies out of the ISO container and directly onto the truck. To place them on the truck we needed to lift them to just above shoulder height. I cannot recall if we placed them on the truck feet-first or head-first. I do not remember climbing onto the truck to do this.”²⁸²⁹

2.2126 With the exception of Corporal John Wilson, whose evidence I come to next, the various soldiers who gave evidence to the Inquiry about the loading process, generally described an uneventful, though difficult job, that had been carried out in a manner entirely consistent with WO2 Moger’s own assessment, namely that the bodies had been handled with great care and treated as humanely as possible.²⁸³⁰

2.2127 In his written Inquiry statement, Corporal Wilson gave a general description of how the dead bodies were loaded and moved that day.²⁸³¹ He then went on to describe an incident involving just himself, that he said had happened whilst he was carrying one of the bodies:

“As we were lifting one of the bodies, one of the body bags ripped at the bottom and the top half of one of the bodies fell out. The bag had split as the man was very heavy, I would guess about 18 stone at least and the bag could not take his weight. As the top half of his body fell out, backside first, I could see that he had a moustache and was wearing a white shawl or dress-type garment...He was only out the body bag for a matter of seconds and I scooped him up from underneath and put him back in the bag so that he could be loaded onto the lorry.

This was a really horrible job, we were low in mood and I remember that we were all tired as it was a very physical activity. It was also very hot and I was getting frustrated by the job. This caused me to do something stupid that I deeply regret now. As I was putting the body back into the bag, out of frustration I kicked the body on his backside. I did not kick the body hard enough to cause any damage. I am very sorry about my actions now as I believe that whatever side you are on; there should be dignity in death and the thought of someone doing that to me or one of my soldiers is horrible.”²⁸³²

2.2128 Corporal Wilson thought that the body concerned might have been that of Kazem Ouda Baday Al-Baltani (deceased 11).²⁸³³ Unfortunately, Corporal Wilson was unable to give oral evidence to the Inquiry for reasons of ill-health. However, I have no reason to doubt that the incident he described actually did happen. Although this sort of behaviour cannot be condoned, I do not doubt that what he did was due to exasperation and momentary frustration. It was entirely out of keeping with the conduct of the other soldiers and it apparently went unnoticed and/

²⁸²⁸ Lance Corporal Griffiths (ASI011236) [77]

²⁸²⁹ Lance Corporal Walsh (ASI013157-58) [66] – [67]

²⁸³⁰ See paragraph 2.2123 above

²⁸³¹ Corporal Wilson (ASI017710-11) [22]

²⁸³² Corporal Wilson (ASI017711-12) [23] – [24]

²⁸³³ Corporal Wilson (ASI017712) [25]

or was not remembered by WO2 Moger and the others. Although I accept that Corporal Wilson genuinely believes that his kick did not cause any additional damage to the body, it seems to me that there is a real possibility that his kick did mark the body in such a way that it might have been observed by those who came to handle that particular body at a later stage.

2.2129 WO2 Moger was clear and consistent in his evidence that he had carefully counted 20 dead bodies as they were removed from the ISO container that morning.²⁸³⁴ This particular part of his evidence made an important contribution to the overall body of evidence that established that no Iraqi detainees were unlawfully killed at Camp Abu Naji overnight on 14/15 May 2004, because it is absolutely clear that the same number of bodies was present in the container on the morning of the 15 May 2004 as had been placed in that container the previous night.

The handover of the bodies at the “Golden Arches”

2.2130 Once the dead bodies were all loaded into the Bedford truck, it was driven out of Camp Abu Naji to the rendezvous point by the Golden Arches. The Bedford truck travelled in a convoy with personnel from the Quartermaster’s department providing protection. Captain McDonald recalled that the protection was provided by two Land Rovers, each containing a driver and about three soldiers.²⁸³⁵

2.2131 In his written Inquiry statement, Captain McDonald described the role of the force protection team in the following terms:

“I ordered the soldiers to fan out in case there was any trouble. I was not expecting a threat but I wanted to be careful just in case.”²⁸³⁶

2.2132 The presence of the force protection team was a sensible precaution on the part of Captain McDonald, particularly since British forces had been the subject of a significant armed attack the previous day. However, I accept that the presence of armed soldiers at the scene of the handover might have had an impact on the way some of the Iraqi witnesses perceived the handover process, as explained in the paragraphs which follow.

2.2133 According to Captain McDonald and Lance Corporal Simon Robinson, the military convoy arrived at the handover point before any members of the Iraqi community.²⁸³⁷ However, Private Mark Sugden and Lance Corporal Stewart Finneran remembered how they had seen Iraqis already present at the handover point, when they arrived there.²⁸³⁸

2.2134 Nothing of any significance turns on who was the first to arrive at the Golden Arches. Similarly, although some military witnesses described how the atmosphere at the Golden Arches had been tense at the time, it does not seem to me to be necessary to go into that aspect of the matter in any detail, except to observe that it would not be surprising if that were so.

2.2135 However, it is necessary to deal with a number of allegations that British soldiers had displayed a lack of respect towards members of the Iraqi community and/or had ill-treated the dead bodies during the handover process. Specific allegations to that effect were made by two members of the Iraqi community present at the handover in particular, as detailed in the paragraphs which follow.

²⁸³⁴ WO2 Moger [108/8-9]

²⁸³⁵ Captain McDonald (ASI013183) [59]

²⁸³⁶ Captain McDonald (ASI013183-84) [60]

²⁸³⁷ Captain McDonald (ASI013184) [61]; Lance Corporal Robinson (ASI010924) [59];

²⁸³⁸ Private Sugden (ASI010493) [54]; Lance Corporal Finneran (ASI021790) [41]

2.2136 Salim Adday Mohaisen Al-Baidhani (witness 157) was an ambulance driver based at the Al Majar al’Kabir hospital and was one of those who had gone to the Golden Arches on 15 May 2004. In his written Inquiry statement, Salim Al-Baidhani said this:

*“Before the arrival of the bodies I remember the soldiers that were surrounding us were in a state of readiness. They were making noises, almost laughing at us, provoking us and some of them were singing. I don’t know what song it was they were singing, and I have not heard it before or since, but all of them knew it.”*²⁸³⁹

2.2137 Salim Al-Baidhani continued:

“We were not allowed into the vehicles to unload the bodies. In fact one of the soldiers threatened to kick one of the first aid staff away from his vehicle, to show him to move back. I remember one of the soldiers stepping on the bodies to reach the ones at the rear of the vehicle and another was throwing the bodies towards us. One of the bodies fell out of the vehicle onto the floor before we could get hold of it. They were not treating the bodies with respect or dignity.”

2.2138 Salim Al-Baidhani reiterated that allegation, when he came to give his oral evidence to the Inquiry.²⁸⁴⁰

2.2139 In his written Inquiry statement, Aqeel Abdul Abbas Jamol (witness 93) made the following similar allegations:

*“The British soldiers showed no respect for the dead. When removing the bodies from their vehicles they were standing on them. There was no need for this to be done. Other options were available to remove the bodies without treading on them. Even in the absence of proper equipment/tools to assist with the task, it was still unnecessary to stand on the bodies. This angered the Iraqi medical staff, and caused some of them to shout at the British soldiers. It was totally disrespectful. There was no dignity in the transfer of the bodies by the British. They treated the dead just like a ship’s cargo in a port.”*²⁸⁴¹

2.2140 Qassim Ghelan Neema Sahn Al-Majidi (witness 182) also said that he had been present at the handover on 15 May 2004, although he did not work at either the Al Majar al’Kabir or the Al Sadr hospital. In his written Inquiry statement, Qassim Al-Majidi gave the following account:

“Each body was held in a military coloured body bag, in khaki or maybe black colour. The soldier who threw them out took hold of one side each, pulled the bag to the rear of the truck and threw it out, then repeated this with the second body bag.

*As this was happening, people amongst us began making a religious chant, “God Is Great”, and the British soldiers began laughing at us, sarcastically, and we lost our patience with them. They were mocking us. Seeing this, I became extremely angry and lost control of myself. I approached the back of the truck and tried to pull a body a [sic] bag out. As I did so, a soldier in the back of the truck kicked me in my chest, causing me to fall back from the truck and onto the ground.”*²⁸⁴²

²⁸³⁹ Salim Adday Mohaisen Al-Baidhani (ASI008838) [75]

²⁸⁴⁰ Salim Adday Mohaisen Al-Baidhani [47/28-29]

²⁸⁴¹ Aqeel Abdul Abbas Jamol (ASI008473) [50]

²⁸⁴² Qassim Ghelan Neema Sahn Al-Majidi (ASI008802) [95] – [96]

2.2141 However, the evidence of the Iraqi witnesses about how the handover process had been carried out was inconsistent. Thus, when Ali Dawas Majeed Al-Saeedi (witness 166) was asked about the way in which the British soldiers had unloaded the dead bodies at the handover, he said this:²⁸⁴³

“Q. Were they careful in placing the bags on the floor?”

A. Yes. Yes. They were careful. They would unload the bodies and place them on the floor.

Q. Did you see any soldiers in the rear of the vehicle trampling over the bodies?”

A. No.

Q. Did you see any soldiers showing disrespect to the bodies by throwing them from the rear of the vehicle?”

A. No, no.

Q. Did there come a time when there was a fight between the soldier and another person that was there?”

A. I did not see that.

Q. So you did not see a soldier kick a civilian in the chest?”

A. No, no.”

2.2142 Similarly, when Ahmed Abbas Makhfe Al-Fartoosi (witness 91) gave his oral evidence to the Inquiry, he said that he had not seen any bodies being thrown or trampled on and that he had not seen any form of conflict between the British troops and those from the local community who had been present at the handover.²⁸⁴⁴

2.2143 The evidence of the military witnesses about the conduct of the handover was entirely consistent. All the military witnesses were adamant that they had done nothing to show disrespect either to the bodies or to any members of the Iraqi community who were there to collect the bodies. None of them considered that they had done anything that could reasonably have been construed as disrespectful. As WO2 Moger said, during his oral evidence to the Inquiry:

“The atmosphere was very tense, but at no stage did anything happen at all.”²⁸⁴⁵

2.2144 Similarly, during his oral evidence to the Inquiry, Captain McDonald said that the handover had proceeded in a respectful manner and that if any untoward incident had occurred during the handover, he would have seen it. He also confirmed that there had been no physical confrontation or display of aggression during the handover process that day.²⁸⁴⁶

2.2145 I have no doubt that the evidence of the military witnesses, about how the handover of the dead bodies had been conducted on 15 May 2004, was both truthful and accurate. I am quite sure that the soldiers involved in the handover process did nothing deliberate to antagonise

²⁸⁴³ Ali Dawas Majeed Al-Saeedi [46/31-32]

²⁸⁴⁴ Ahmed Abbas Makhfe Al-Fartoosi [40/57-59]

²⁸⁴⁵ WO2 Moger [108/37]

²⁸⁴⁶ Captain McDonald [101/174]

any of Iraqi community present and that they handled the bodies in an appropriate and respectful manner.

2.2146 As I have already explained, a number of the Iraqis who had gone to the handover at the “Golden Arches” that morning had been expecting to collect injured people. In the event, they found themselves faced with the daunting and deeply distressing task of collecting the dead bodies of twenty members of their local community. I have no doubt that this would have come as a severe shock to those Iraqis and the situation would have been exacerbated by the fact that no interpreters appear to have been present in order to help explain. It also seems likely that the mere presence of the force protection team caused those who had come to collect the bodies to feel threatened. I have little doubt that contributed to the tense atmosphere, as described by a number of the military and Iraqi witnesses who had been present at the handover.

2.2147 Nevertheless, I am sure that none of the dead bodies were intentionally trampled on or thrown out of vehicles as described by Salim Al-Baidhani (witness 157), Aqeel Abdul Abbas Jamol (witness 93) and Qassim Ghelan Neema Sahn Al-Majidi (witness 182). I am sure that their evidence to that effect was deliberately untruthful in an attempt to discredit the British soldiers. Nor do I believe that any significant confrontation actually occurred between the soldiers and the members of the local community. I am sure that Qassim Ghelan Neema Sahn Al-Majidi (witness 182) was not kicked by a soldier at the handover as he claimed in evidence and that he deliberately lied about it as part of an effort on his part to discredit the British military.

Handling of the bodies by the Iraqi community

2.2148 Once the 20 dead bodies had been handed over by the British, they were loaded into a convoy of Iraqi ambulances. This convoy then set off from the Golden Arches and proceeded south along Route 6. The intended destination was the Al Majar al’Kabir hospital. However, on their way down Route 6, the convoy encountered Dr Adel Saleh Majeed Al-Shawi (witness 81). Dr Adel Al-Shawi stopped the convoy and redirected them to the Al Sadr hospital in Al Amarah. His reasoning was as follows:

“I expected that the number of bodies would be large, because of the number of families that were waiting for news. I thought to myself, we could be dealing with a massacre, this will be very difficult for a small hospital such as Majar Al-Kabir hospital to handle. But the most important thing was to protect the rights of the victims. These deaths required forensic examination. It was clear that they were caused in suspicious and controversial circumstances. In this situation it was very important that we followed the correct procedures for them.”²⁸⁴⁷

2.2149 Dr Adel Al-Shawi said that he had previously spoken to the forensic department at Al-Sadr hospital and had made arrangements for the necessary forensic examinations to be carried out there. Even at this early stage of the process, it is clear that there were already suspicions in the minds of some in the Iraqi community about how these young men had come to be killed.

²⁸⁴⁷ Dr Adel Al-Shawi (witness 81) (PIL000209) [52]

2.2150 Once the bodies arrived at the Al-Sadr hospital, members of staff from that hospital and from the Al Majar al’Kabir hospital started to unload the bodies from the ambulances and to take them into the refrigerators in the Al Sadr hospital’s forensic department.²⁸⁴⁸

2.2151 The Inquiry has seen video recorded footage of the moment at which the bodies actually arrived at the Al-Sadr hospital.

2.2152 The first relevant piece of footage is one that has been given the reference, DCM/5 (ASI005972). This particular footage was taken by Luay Mohammed Zayir Al-Noori (witness 108), a professional photographer based in Al Majar al’Kabir.

2.2153 This footage, which contains both video and audio recordings, includes the comments and observations of those who were present when the bodies arrived at the hospital. It is clear from the English transcript of what was said at the time by those who were looking at the bodies as they arrived, that there was already considerable speculation about the nature and cause of the injuries that could be seen on the bodies. For example:

“4:03:53.02:32 (A group and an unseen person talking) – This is from yesterday; it’s old, from yesterday. This was from yesterday. This was murdered yesterday.

4:03:55/02:33 Just now brother...they have just executed them. This is recent, brother. This is fresh blood.”²⁸⁴⁹

A further example is this:

“4:15:53/04:04 (Unseen person) – They have even gouged his eyes.”²⁸⁵⁰

And finally:

“4:24:13/05:25 (Man seen in front of the camera) – Two were run over by the tracks and they cut off their arms from here. Two were (indistinct) and their hands cut off from here.”²⁸⁵¹

2.2154 The transcript of DCM/5 also demonstrates the impact that the unsuccessful trip by the ambulances to Camp Abu Naji the previous evening had had on the perceptions of the local Iraqi community:

“4:03:42/02:21 – 02:31 (Man wearing a white t-shirt) – We went to get them yesterday. They were wounded and I went to get them. They did not hand them over to us. They have now executed them, ok. We went to get them yesterday when they were wounded. They refused to hand them over to us. ‘Wait 5 minutes’, they said, and all will be ready but at the end they threw us out.”²⁸⁵²

2.2155 The second relevant piece of footage of the arrival of these bodies has been given the reference, DCM/6 (ASI005973). It was filmed by Mohammed Majid Mohammed Salih Al-Jafar (witness 134). It also contains an audio track that records the reaction of various individuals to what they saw. The English transcript of those comments also clearly shows the extent to which people within the Iraqi community were already speculating about what had caused the deaths of the deceased:

²⁸⁴⁸ Dr Adel Al Shawi (witness 81) (PIL000212) [61]; Luay Mohammed Zayir Al-Noori (witness 108) (ASI008585-ASI008589) [129] – [141]

²⁸⁴⁹ (ASI019784)

²⁸⁵⁰ (ASI019786)

²⁸⁵¹ (ASI019787)

²⁸⁵² (ASI019784)

*"01:55/06:21 – 06:26 – (Man pointing with his finger) – These are the marks left by being dragged...these are the marks left by being dragged by a car...look...look at these injuries."*²⁸⁵³

And then later:

*"01:48/06:34 – 06:54 (Doctor wearing a coat) – Yesterday...he was tied up next to the tank yesterday. Eye witnesses stated that they had seen him being held captive. He was wearing his grey trousers and they took him away in an armoured vehicle. Can this blood be from someone who was killed yesterday? Can this body be a body from yesterday? If it is a body from yesterday then where is the smell?"*²⁸⁵⁴

2.2156 I am satisfied that these video/audio recordings clearly demonstrate the genuine, if mistaken, opinions of those who were there at the time. The recordings clearly show that, even before the bodies had been properly examined, conclusions were already being reached about how some of the deceased had sustained their injuries. I have little doubt that these initial conclusions heavily influenced those that were expressed later, after the bodies had been examined in greater detail.

2.2157 Once the bodies were in the forensic department, attempts were made to identify them. Dr Adel Al-Shawi and his cousin Dr Ali Abdul-Azai Al-Shawi conducted basic examinations of the bodies, but it appears that no notes were made of their findings.²⁸⁵⁵

2.2158 In his written Inquiry statement, Dr Al-Shawi described how the injuries that he identified at this stage had served to heighten his already existing sense of suspicion and concern about how these young men had come to die, as follows:

*"I saw that there were many bullet wounds, from the neck upwards. These would easily have caused their deaths. But when we saw signs of mutilation on some dead bodies that was very disturbing. For example cutting the penis of some people, cutting the necks of some people, cutting the eye. I also noticed that several bags – about 5 or 6 – contained medical forms. These people had been patients, they had been treated. This also concerned me."*²⁸⁵⁶

2.2159 In fact, the presence of medical forms with some of the bodies was not an indication that the bodies had received medical treatment whilst alive or at all. As I have already explained in an earlier part of this Report²⁸⁵⁷, the Army doctors who examined the dead bodies post-mortem at Camp Abu Naji on the evening of the 14 May 2004 had made various notes about the bodies on standard medical FMED5 forms. Some of these forms were left with the bodies and were, without doubt, the forms to which Dr Adel Al-Shawi referred in his evidence, as quoted above. Although the conclusion to which Dr Adel Al-Shawi came when he saw these forms was wrong, it was understandable.

2.2160 Some attempt was made to conduct a forensic examination of some of the bodies. That seems to have been abandoned when the already tense atmosphere worsened and there appears to have been no written or other record of what those examinations revealed, if anything.

²⁸⁵³ (ASI019794)

²⁸⁵⁴ Ibid

²⁸⁵⁵ Dr Adel Al-Shawi (witness 81) (PIL000212) [63]

²⁸⁵⁶ Dr Adel Al-Shawi (witness 81) (PIL000212) [64]

²⁸⁵⁷ See paragraphs 2.2001 – 2.2007

2.2161 In his written Inquiry statement, Dr Adel Al-Shawi described the dramatic circumstances which led to the sudden and significant worsening of the situation at the Al Sadr hospital that day:

*"I entered the forensic building and was trying to calm people down, telling them to let the medical workers do their work. However, I did not go into the examination room itself as this was the job of the forensic doctor. There were perhaps a dozen people outside this room. While I was talking to the people, I heard gunshots. I went outside the building and just as I did so a bullet passed in front of me, very near to me. Then I heard that the Chief of Police of Al-Majar was shot, although I didn't see this. I think he was shot in the head. I believe that the emotion of the situation created a conflict between him and the Governor of Al-Amarah and an argument had ensued about how to deal with the situation."*²⁸⁵⁸

2.2162 Understandably, in the circumstances it was decided that it was impossible to continue with any further examination of the bodies at Al Sadr hospital that day. Furthermore, a number of the relatives of the deceased had travelled from Majar al'Kabir to the Al-Sadr hospital in search of information²⁸⁵⁹ and, in his written Inquiry statement, Dr Adel Al-Shawi described what he decided to do, as follows:

*"They wanted to know what was happening and were becoming increasingly hard to control. So my decision was to leave and go back to Al-Majar. I called the ambulances back and the bodies were loaded into the rear of the vehicles. I then told them to come to Majar Al-Kabir hospital and set off myself in the hospital pick-up truck. So in the end the forensic doctor at Al-Sadr Hospital was only able to examine one body. I don't know which body this was. I don't believe any notes existed of this examination as it was still underway when the shooting incident occurred."*²⁸⁶⁰

2.2163 In his written Inquiry statement, Luay Mohammed Zayir Al-Noori (witness 108) also described what then took place, as follows:

*"The bodies of the deceased were then taken from the hospital and back to Al Majar Al Kabir. Some were taken in privately owned vehicles and others in ambulances. I got into one of the ambulances and returned to Al Majar Al Kabir with them. I don't know how many bodies were taken, I would say over twenty of them, but I didn't count them. They were removed from the refrigeration facilities and loaded into the peoples' [sic] cars and some of the ambulances. If people there had cars, they took their deceased with them in their vehicle, one body per car. Those people present who didn't have a vehicle put them into the ambulances. I think about twenty cars were used and over three ambulances, but I do not know the actual number."*²⁸⁶¹

2.2164 The process described by Luay Al-Noori was evidently a disorganised one, conducted in an ad hoc and rushed manner. It involved the dead bodies being loaded and unloaded on several occasions and carried by a large number of people in very crowded and emotional conditions. In those circumstances, and given the injuries that the bodies had already sustained, it is possible that further damage was inadvertently caused to the bodies while they were at Al-Sadr hospital in Al Amarah and while being thereafter transferred to Majar al'Kabir hospital.

²⁸⁵⁸ Dr Adel Al-Shawi (witness 81) (PIL000214) [69]

²⁸⁵⁹ Dr Adel Al-Shawi (witness 81) (PIL000214) [72]

²⁸⁶⁰ Dr Adel Al-Shawi (witness 81) (PIL000214-15) [72]

²⁸⁶¹ Luay Mohammed Zayir Al-Noori (witness 108) (ASI008595) [162]

At the Al Majar al’Kabir Hospital and beyond

2.2165 Once at the Al Majar al’Kabir hospital, the bodies were examined by Dr Adel Al-Shawi (witness 81) and Dr Jafar Nasser Hussain Al Bahadli (witness 82). In the next part of this Report, which deals with the injuries observed on the bodies, I go into more detail about the examinations that were carried out on the bodies and the death certificates that were produced as a result of them.

2.2166 After the examinations were completed at the Al Majar al’Kabir hospital, the bodies were returned to their relatives. A number of the relatives conducted their own examination of the bodies when they first received them and a number conducted more detailed examinations of the bodies when they washed them prior to burial. In the next part of this Report I will also deal with the observations made by the relatives during their own examinations of the bodies.

2.2167 Ultimately, the bodies of each of the young men killed during the Battle of Danny Boy were then taken by their families to be buried in the cemetery in Al Najaf.

3. The injuries to each of the Iraqi deceased

2.2168 In this part of the Report, I turn to consider and to determine, as far as it is possible to do so on the evidence I have heard, read and seen, the various matters that are raised in five of the issues that are set out and numbered in the Inquiry’s List of Issues as follows:

Issue 7

In relation to each of the dead Iraqis whose body was collected from the battlefield by British soldiers on 14th May 2004, to identify:

- a. *His (or her) name and date of birth.*
- b. *The time of death.*
- c. *The place of death.*
- d. *The manner and cause of death.*
- e. *The name or description of the people who caused that death.*

Issue 8

To resolve whether other Iraqis were killed on the battlefield but their bodies not collected from the battlefield by British soldiers. If so to state:

- a. *The number.*
- b. *The names and dates of birth of each of them.*
- c. *The time of death of each of them.*
- d. *The place of death of each of them.*
- e. *The manner and cause of the death of each of them.*
- f. *The name or description of the person who caused each such death.*
- g. *What happened to each of their bodies.*

Issue 35

To establish what injury or injuries each medically qualified person found on each Iraqi.

Issue 48

To establish what injury or injuries were found upon such examinations [carried out after the bodies were handed back to the Iraqi community].

Issue 51

To establish, having regard to all of the evidence now available (including the photographic evidence), what was the medical cause (or causes) of death of each of the deceased Iraqis.

2.2169 The reason for the inclusion of each of these Issues in the Inquiry's List of Issues was the following explicit requirement in the Terms of Reference:

"To investigate and report on the allegations made by the claimants in the Al-Sweady judicial review proceedings against British soldiers of...unlawful killing at Camp Abu Naji on 14 and 15 May 2004."

2.2170 A large number of conclusions of fact have already been expressed in this Report, which provide the answers for many of the questions raised by these Issues. In particular, I have already set out my conclusions as to the number and the identity of the Iraqi men who were killed by British troops during the Battle of Danny Boy on 14 May 2004, as well as indicating whether their bodies were taken back to Camp Abu Naji that day or whether their bodies were left on the battlefield. In this part of the Report, I will set out my conclusions with regard to the place where each of them actually died and the injuries that each sustained, as far as the evidence permits.

2.2171 As it seems to me, the nature and extent of the injuries sustained by the deceased Iraqi men are relevant to the Inquiry's Terms of Reference in two main respects.

2.2172 First, the nature of the injuries provides compelling evidence about how the Iraqi men in question came to die. Stated in broad terms, evidence of bullet and shrapnel wounds to the bodies of the deceased will tend to support the claim made by the military that the deceased in question were actually killed in the course of the Battle of Danny Boy. Similarly, evidence of injuries or wounds to the deceased (particularly ones that might have caused death), that do not appear to be injuries/wounds of a type likely to have been caused in the battle, might lend support to the allegation that those deceased were killed otherwise than during the battle itself.

2.2173 Second, allegations and rumours of the torture of captured Iraqis and the mutilation of their dead bodies (as well as allegations of unlawful killing) had begun to circulate almost as soon as the bodies of the 20 deceased Iraqis were handed over by the British military to the local community on 15 May 2004. Thus, the Judicial Review proceedings that were the genesis of this Inquiry²⁸⁶² also included allegations that the deceased Iraqi men had been tortured prior to death and/or mutilated after death, in addition to the allegations of unlawful killing at Camp Abu Naji. In the Amended Particulars of Claim, it was claimed that:

*"Post mortems and other examinations performed on the corpses revealed that the individuals had been tortured prior to death."*²⁸⁶³

²⁸⁶² See Part 1 (Introduction), Chapter 1

²⁸⁶³ ASI025446 [71]

- 2.2174** Accordingly, it was necessary for this Inquiry to carry out a detailed consideration of the nature and extent of the injuries on the bodies of the deceased Iraqis, in order to determine whether these provided any support for the allegations of torture and mutilation.
- 2.2175** The Inquiry took a number of different steps and measures in order to ensure that it obtained as much evidence as possible of the injuries actually sustained by each of the deceased Iraqi men. In the paragraphs that follow, I set out the details of the most significant of those steps/measures.
- 2.2176** First, the Inquiry obtained disclosure of the death certificates that had been produced for each of the deceased Iraqi men. These certificates purported to record the cause or causes of death of each of the men in question and were available in both English and the original Arabic.
- 2.2177** Second, the Inquiry obtained disclosure of the photographs of the dead Iraqi bodies that had been taken by Captain James Rands on the evening of 14 May 2004 at Camp Abu Naji. It is possible to make out a number of different injuries on the bodies of the deceased Iraqi men depicted in those photographs.
- 2.2178** Third, the Inquiry obtained written and oral evidence from the various Iraqi medical professionals, who had dealt with the bodies of the dead Iraqis after they had been handed over to the local community by the British military on 15 May 2004.
- 2.2179** Fourth, the Inquiry obtained written and oral evidence from the various Iraqi medical professionals who had conducted post mortem examinations of the dead bodies after they were handed over.
- 2.2180** Fifth, the Inquiry obtained written and oral evidence from the relatives of the deceased Iraqi men, who had handled the dead bodies after they had been handed over on 15 May 2004. A number of these relatives had observed injuries on the bodies, either immediately after they had received them or while the bodies were being washed and prepared for burial soon after.
- 2.2181** Sixth, the videos DCM/5 and DCM/6, showing the bodies on arrival at the Al Sadr Hospital in Al Amarah,²⁸⁶⁴ and a video known to the Inquiry as the “Third DVD”, also showing the bodies being handled by the local Iraqi community.
- 2.2182** Finally, the Inquiry obtained written and oral evidence from three expert witnesses based in the United Kingdom. Relevant excerpts from the evidence referred to above was sent to each of the experts in order to assist them with coming to their conclusions.
- 2.2183** The first of those experts was Doctor Peter Jerreat, a Home Office accredited Forensic Pathologist. Dr Jerreat was asked to consider the evidence which was sent to him and to comment in relation to the following matters:
- a. Identify forensic potential within the material provided and make suitable recommendations.
 - b. Provide as far as practicable, a full description of the visible injuries to each of the deceased.
 - c. Identify which injuries were potentially life threatening or might have been the cause of death.

²⁸⁶⁴ The contents of these videos are discussed at paragraphs 2.2151 – 2.2156 above

- d. Identify, if possible, the cause or potential cause of death.
- e. Were injuries to the bodies caused pre or post mortem?
- f. Are signs of torture, mutilation or dismemberment present on the bodies, pre or post mortem?
- g. Establish the proximity of the weapon to the person, when the injuries were caused.
- h. Establish if possible from the photographs or video how long the person had been dead before the photograph was taken.
- i. From the distribution of the blood on the bodies seen in the photographs or video, does it indicate or assist with the weapon used or method of death or body position at the time of death?
- j. Is lividity present on any of the bodies and if so, its significance?
- k. Are the injuries seen on the bodies, consistent with battlefield injuries or otherwise?
- l. Do specific weapons make (signature) entry and exit wounds/marks and are any present on the bodies?
- m. From viewing the photographs of weapons allegedly recovered from the battlefield, are any of the weapons viewed relevant to any injuries seen on the deceased's bodies?
- n. Allegations exist that eyes were removed by soldiers from bodies. Is there any indication from the photographs/video that the eyes were removed pre/post mortem or how the injuries were caused?
- o. There are suggestions that one of the body's heads was squashed in a military (Warrior) vehicle. Is there any evidence of this from the photographs/video?
- p. What force would be required to cause the above injury?
- q. Allegations exist that the genitalia of a body was removed/mutilated by soldiers. Is there any indication from the photographs/video that the genitalia were removed/mutilated pre/post mortem?
- r. From viewing the photographs/video is there any evidence of 'medical treatment' being provided to any of the bodies?
- s. Does the photograph ref: – 0052V12/1 (ASI012414) indicate that the person depicted is alive or dead?
- t. Are there any injuries seen in photograph: – 0052V12/1 (ASI012414) that are consistent with the other photographs/video?
- u. Do differences exist between the photographs/video mentioned above and if so, what are they?
- v. From viewing all of the photographs and videos, can you indicate what type of weapons were used to cause the injuries to the bodies?
- w. From viewing the material can restraint marks be seen on any of the bodies?
- x. Is there any gunshot or explosive related damage to the clothing seen?
- y. What value is there from viewing these photographs of Blood pattern analysis?

2.2184 The second expert was Mr Franco Tomei, a Forensic Scientist specialising in the examination of firearms, ammunition and related items. Mr Tomei was asked the same questions as Dr Jerreat.

2.2185 The final expert was Mr Anthony Larkin, an expert in the field of bloodstain pattern analysis. Mr Larkin was asked to consider the photographs taken by Captain Rands at Camp Abu Naji and to comment on how the bloodstains visible may have been created and, therefore, the position which the person may have been in when bleeding.

2.2186 In the Introductory Section of this Report, I referred to the concession made by Leading Counsel for the Iraqi Core Participants on 20 March 2014, at the conclusion of this Inquiry's oral hearings.²⁸⁶⁵ In the first part of that concession, Mr Patrick O'Connor QC said this:

*"The Iraqi core participants will not submit that, on the balance of probabilities, live Iraqis captured during the course of the battle on 14 May 2004 died or were killed at Camp Abu Naji."*²⁸⁶⁶

2.2187 Recognising the extent to which the allegations of unlawful killing were closely associated with the allegations of torture and mutilation, Mr O'Connor continued, as follows:

*"Whilst the interpretation of the injuries to the dead bodies and their causes of death are matters of great difficulty, we recognise that the large majority of those injuries are consistent with death in the vicinity of the firefight."*²⁸⁶⁷

2.2188 Finally, Mr O'Connor went on to say this:

*'Sir, very briefly on the separate issue of the treatment of the bodies. Even though there is no reference in the list of issues to the possible mistreatment of the dead bodies at Camp Abu Naji, the Inquiry has heard from many military witnesses on that issue. We think it right to make clear that we will not be submitting that there is any evidence of such mistreatment between the arrival of the bodies outside the medical centre on 14 May 2004 and their return to the Iraqi authorities on 15 May 2004.'*²⁸⁶⁸

2.2189 The extensive and painstaking investigations conducted by this Inquiry have generated a vast body of evidence which I have seen, heard and read. I have given careful consideration as to how best to deal with this body of evidence within what is already a lengthy Report, particularly in the light of this very important concession made on behalf of the Iraqi Core Participants on 20 March 2014.

2.2190 One possible approach to this body of evidence would have been to start by identifying every injury present on each of the bodies of the deceased Iraqi men (so far as that was possible) and then to decide whether each such injury was caused ante or post mortem. In respect of each ante mortem injury, I would then have determined whether it had been sustained during the course of the battle or whether it was deliberately inflicted on the man after capture. In respect of each post mortem injury, I would have determined whether the injury had been sustained as a result of deliberate mutilation by British soldiers or whether it had been caused unintentionally in the course of handling and transportation of the body.

2.2191 Although such an approach would have dealt comprehensively with relevant issues in the Inquiry's List of Issues, as originally published, I have come to the firm conclusion that such a detailed analysis is unnecessary in the light of the concession made on behalf of the Iraqi Core Participants and the totality of the evidence that has been put before the Inquiry.

²⁸⁶⁵ See paragraph 2.6 onwards

²⁸⁶⁶ [167/204]

²⁸⁶⁷ [167/208]

²⁸⁶⁸ [167/209]

2.2192 I have no doubt that the concession, made on behalf of the Iraqi Core Participants on 20 March 2014, that the bodies of the dead Iraqi men were not mistreated at any stage, between their arrival outside the Medical Centre at Camp Abu Naji on 14 May 2004 and their handover to the local Iraqi community on 15 May 2004, properly reflected the totality of the evidence about this matter. For the avoidance of doubt, I am completely sure that none of the bodies of the deceased Iraqi men were mutilated or deliberately mistreated by the British in any way between the arrival of those dead bodies at the Medical Centre at Camp Abu Naji on the evening of 14 May 2004 and their eventual handover to the local Iraqi community on 15 May 2004.

2.2193 However, the terms of the concession, made on behalf of the Iraqi Core Participants on 20 March 2014, still leave open two important issues that need to be dealt with and to which the evidence of the injuries sustained by the deceased Iraqi men is of direct relevance, namely:

- a. were any of the deceased Iraqi men, with whom this Inquiry is concerned, tortured by British soldiers prior to their death; and
- b. were the bodies of any of the deceased Iraqi men with whom this Inquiry is concerned, mutilated by British soldiers between their death and their arrival at the Medical Centre within Camp Abu Naji on 14 May 2004?

In the event, I am satisfied that I am able to come to appropriate conclusions of fact about both these matters, without undertaking the sort of detailed and exhaustive injury-by-injury analysis to which I have referred above.

2.2194 I turn to consider first whether any of the deceased Iraqi men were tortured by British soldiers prior to his death. It seems to me to be self-evident, that any man who was actually killed during the Battle of Danny Boy had not been tortured by British soldiers prior to his death. I have heard no evidence whatsoever to suggest that any Iraqi man had been in the custody of British troops, before being released or escaping, then joining in the battle against the British troops and then being killed.

2.2195 As I have indicated earlier in this Report, I have no doubt that each of the 28 deceased Iraqi men, who were killed by British soldiers as a result of the fighting on 14 May 2004, was an active and willing participant in the ambush of British troops that day and that he was killed as a result of British fire on the battlefield during the battle. It thus follows that none of those men was tortured prior to his death in the battle.

2.2196 Second, having regard to all the evidence that I have seen, read and heard, I am quite sure that none of the bodies of the 20 deceased Iraqi men, which were recovered from the battlefield on 14 May 2004, were deliberately mutilated between the death of the Iraqi men in question and the time at which their dead bodies arrived at the Medical Centre in Camp Abu Naji on the same day.

2.2197 I have arrived at the foregoing conclusion on the basis of the clear, consistent and credible written and oral evidence of all the soldiers who were involved in and/or witnessed the collection of the dead bodies from the battlefield on the 14 May 2004 and their subsequent transfer to Camp Abu Naji later that same day. As is clear from those parts of this Report, in which I have described the Battle of Danny Boy and the subsequent transfer of the bodies from the battlefield to Camp Abu Naji on 14 May 2004, I consider there to be a possibility that a certain amount of relatively insignificant additional damage may have been caused to these bodies after their death. However, I am quite sure that any such additional damage would have been caused unintentionally by the soldiers concerned. To the extent it happened at

all, it was the result of the soldiers having to carry the dead bodies in difficult and dangerous circumstances and having to stand in the rear of the Land Rovers, in order to provide top cover on the journey back to Camp Abu Naji. At no stage were any of the dead bodies of the deceased Iraqi men deliberately mutilated and/or damaged by the British soldiers that day.

2.2198 In the paragraphs that follow, I will summarise the evidence which I have seen, read and heard about the injuries sustained by each of the deceased Iraqi men. To the extent that it is possible on the available evidence, I will also determine where each of the men in question actually died that day.

2.2199 I will conclude this part of the Report by making some general findings about the evidence that I have seen, read and heard about the injuries sustained by the deceased Iraqi men in question. However, for the reasons explained above, I do not believe that it is necessary to take up time in making specific findings about precisely what injuries were sustained by each of the dead Iraqi men, or precisely how and when each of those injuries was sustained.

2.2200 As can be seen from the following section of this report, a considerable amount of written and oral evidence was given by relatives of the Iraqi men who were killed on 14 May 2004 about injuries they had sustained. The descriptions of those injuries were often accompanied by expressions of belief that the deceased had been unlawfully tortured and killed and their bodies mutilated. It will be seen when I come to the conclusion that those expressed beliefs were unfounded, though in the majority of cases, sincerely and honestly held. In a limited number of cases, which I identify, I have reached a conclusion that those beliefs were not sincerely and honestly held.

Deceased 1 – Ahmed Khaz'al Jabratallah Khalaf Al-Hilifi

2.2201 Ahmed Khaz'al Jabratallah Khalaf Al-Hilifi was designated "Deceased 1" by the Inquiry.²⁸⁶⁹ Ahmed Al-Hilifi's body was recovered from the Southern Battlefield and was the fifth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "KIA 5" by Captain Rands. His body can be seen in three photographs taken by Captain Rands that evening, bearing the references ASI000470, ASI000471 and ASI000472.²⁸⁷⁰

2.2202 The death certificate for Ahmed Al-Hilifi (deceased 1) lists four causes of death, as follows:²⁸⁷¹

- a. Several bullets to the body,
- b. Area to the left eye is blue in colour,
- c. Lacerations of the right (hand) starting from the shoulder with a sharp object,
- d. Signs of beating and torture all over the body.

2.2203 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Ahmed Al-Hilifi's body:

- a. *It is possible to ascertain the clothing on the body is blood stained and the upper arms appear distorted and fractured.*²⁸⁷²

²⁸⁶⁹ See paragraphs 2.28 – 2.33

²⁸⁷⁰ The Inquiry did not publish the photos of the deceased's bodies on the website but the photographs were made available to the Core Participants.

²⁸⁷¹ MOD007682

²⁸⁷² Dr Jerreat (ASI016625) [22.2]

- b. *The left pelvis appears to be very damaged and the clothing on the left thigh is covered in blood stains.*²⁸⁷³
- c. *There is an apparent bullet/shrapnel entry site to the left mid shin.*²⁸⁷⁴
- d. *Laceration can be seen to the left flank of the body.*²⁸⁷⁵
- e. *Injury to the left side of the body near the belt/midline is possibly a missile entry site.*²⁸⁷⁶
- f. *Another possible missile entry site can be seen above the left mid eyebrow.*²⁸⁷⁷
- g. *Grazing/laceration marks appear to be present to the corner left side of the mouth.*²⁸⁷⁸
- h. *There are facial injuries to the forehead and left side of the face.*²⁸⁷⁹

2.2204 With regard to the cause of Ahmed Al-Hilifi's death, Dr Jerreat said this:

*"In my opinion a probable cause of death could be haemorrhage due to multiple injuries...which is compatible with having been caused ante mortem."*²⁸⁸⁰

2.2205 Ahmed Al-Hilifi's father, Khaz'al Jabratallah Khalad Mulla Al-Helfi (witness 15), also gave written and oral evidence to the Inquiry. When he made a statement to the Royal Military Police in December 2004, Khaz'al Al-Helfi had said this:

*"Whilst washing my son's body I noticed that he had several bullet wounds around his chest. He had a knife wound in his left eye. He had many cuts to his arms and legs."*²⁸⁸¹

2.2206 In his written Inquiry statement, Khaz'al Al-Helfi (witness 15) gave the following evidence about the injuries that he had observed on his son's body when it was washed, prior to burial:²⁸⁸²

"His left eye had been smashed. The eye was still present, but the pupil and the eye itself appeared to be destroyed. I was too upset to examine it closely, but this is one of the first things that I noticed when I first saw my son. I had to clean a lot of blood away from around his eye.

The left upper arm above the bicep was cut all around the arm. It looked as if it had been burned by fire. The arm was swollen and I couldn't move it because of this.

The right arm was also cut around the upper arm and it looked as if it was broken just above the elbow because it was loose and was hanging in an unnatural way. This arm also had traces of burns on it.

There was shrapnel stuck in the body in the area around the right side of the abdomen. Each piece of metal was about half the length of a finger. The belt of the trousers was also split by shrapnel.

²⁸⁷³ Dr Jerreat (ASI016625) [22.3]

²⁸⁷⁴ Dr Jerreat (ASI016625) [22.4]

²⁸⁷⁵ Dr Jerreat (ASI016625) [22.5]

²⁸⁷⁶ Dr Jerreat (ASI016625) [22.6]

²⁸⁷⁷ Dr Jerreat (ASI016625) [22.7]

²⁸⁷⁸ Dr Jerreat (ASI016626) [22.8]

²⁸⁷⁹ Dr Jerreat (ASI016626) [22.9]

²⁸⁸⁰ Dr Jerreat (ASI016626) [23.3]

²⁸⁸¹ Khaz'al Jabratallah Khalad Mulla Al-Helfi (MOD012442)

²⁸⁸² Khaz'al Jabratallah Khalad Mulla Al-Helfi (ASI006407-08) [43]

There was a bruise on the right side of the chest which was about two or three inches long where the body had been hit.

There was another bruise on the back below the left shoulder blade that was a similar size.

The skin and flesh above the right and left knees had been torn away and there were tears in the trousers and missing material to match. It looked like a dog bite or maybe a burn I couldn't be sure.

There was also a gunshot wound on the right side of his body towards the bottom of his rib cage and towards the back. This looked to me like a gunshot wound from a rifle."

2.2207 During his oral evidence to the Inquiry, Khaz'al Al-Helfi was asked, by Counsel representing the Ministry of Defence, why he had told the Royal Military Police that his son's eye had sustained a knife wound, whilst in his written Inquiry statement he had described the eye as "smashed" or "destroyed". Khaz'al Al-Helfi's response was as follows:

*"Anyway, the eye is smashed. Whether it was a knife or another tool, after all it is destroyed."*²⁸⁸³

2.2208 Adil Khaz'al Jabratallah Al-Helfi (witness 141), the brother of Ahmed Al-Hilifi (deceased 1), also provided a written Inquiry statement and gave oral evidence to the Inquiry. In his written Inquiry statement, Adil Al-Helfi provided the following detailed description of the injuries he claimed to have seen on his brother's body:²⁸⁸⁴

'The first thing that I saw was Ahmad's face. He had some marks on the area of his left eye that looked as though he had sustained a blow, whether this was a punch, a blow with a rifle butt or something else, I don't know. His left eye was half open and I saw that his eye was badly damaged; it had been beaten so much that the bottom eyelid was badly swollen and discoloured. The iris of his eye looked white and a kind of film was covering his eyeball; like liquid had poured into the eye. His right eye was wide open. I put my hand to the back of his head so that I could lift his head towards me; my hand became wet with blood. The inside of the body bag was full with Ahmad's blood.

When I opened the body bag it looked as though Ahmad's hands were tied behind his back. His arms were bent behind him and he was lying on his hands. When I pulled his hands though I realised that they were not tied. His hands were in an unnatural position; they were rigid and clenched like claws. I raised Ahmad's left hand and saw that his arm was badly damaged below the shoulder. The flesh was cut the whole way around his arm. It looked as though his arm had been cut all the way around with something hot, like a welding iron.

When I looked at his right arm, this was also cut all the way around at the top of his arm, below his shoulder. On his right arm the cut was even deeper and I could see his bone protruding. It looked as though only a small piece of flesh was keeping his arm connected. On Ahmad's right forearm there were several bruises and it looked as though this part of his arm had been severely beaten with something, maybe an iron bar.

²⁸⁸³ Khaz'al Jabratallah Khalad Mulla Al-Helfi [27/38]

²⁸⁸⁴ Adil Khaz'al Jabratallah Al-Helfi (PIL000113-115) [104] – [113]

I raised Ahmad's top and looked at his body. I saw that there was a bullet wound to the left side of his chest, to the area of his heart. The wound was an entry wound. I had seen gunshot wounds during my military service and knew the difference between an entry and exit wound. On the right side of Ahmad's chest I saw 3 further entry bullet wounds in the shape of a triangle (2 gunshot wounds at the top and 1 at the bottom).

I turned Ahmad over on the ground and saw that there was a corresponding exit wound to the left side on his back as if the bullet wound to his heart had travelled straight through his body. The exit wound was larger; the bullet had pushed the tissue from the body on the way through Ahmad. There were no corresponding exit wounds to his back, from the gunshot wounds to the right side of his chest.

When I looked at Ahmad's abdomen I saw several gunshot wounds to his right side. These were in a line vertically up his body from his waist to his armpit. It looked as though he had been shot, to his side, with a machine gun. I did not count the amount of gunshot wounds but there were several.

The left side of Ahmad's abdomen was a mess. He had a large wound and his intestines were spilling out. It looked to me as if this side of his body had been hit by shrapnel; as if a rocket had exploded rather than he had been shot. I do not think the injuries to the left of his abdomen were gunshot exit wounds. Later my father told me that, when they prepared his body for burial, they had found the fragments of shrapnel in this wound which were as long as a finger. Therefore I am sure this was a shrapnel wound and not a gunshot wound.

I pulled Ahmad's trousers down to see if he had sustained injuries to his lower body. I found a gunshot entry wound to his groin. This wound was just above and left of his genitals. I saw that the bullet had gone straight through his body as there was an exit wound to his left buttock, in the area of the back pocket of his trousers.

Ahmad had injuries above both of his knees which were almost identical. Above both knees there was a large chunk of flesh missing. The missing flesh was in the shape of a crescent. Around this area I saw that the fabric of his trousers had been damaged; they looked as though they had been burnt. I do not know what would have caused this injury, all I can say is that it looked as though he had been burnt with a laser or something similar.

Ahmad had a wound to the back of his left ankle. This looked like a gunshot wound as if the bullet had passed through the flesh at the back of his ankle from one side to the other.'

2.2209 Since Ahmed Al-Hilifi was amongst the first group of 12 dead bodies to be photographed by Captain Rands at Camp Abu Naji that evening, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British forces that had been carried out by armed insurgents that day and that he was killed by British fire in the resulting fighting. In my view it is likely that he was one of the armed insurgents actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 2 – Haydar Hatar Mtashar Khayban Shamkhi Al-Lami

2.2210 Haydar Hatar Mtashar Khayban Shamkhi Al-Lami was designated “Deceased 2” by the Inquiry. As I have already stated earlier in this Report, Haydar Al-Lami (deceased 2) was originally captured by Privates Tamani and Sullivan in the Storm Drain Position on the Northern Battlefield.²⁸⁸⁵ He was badly wounded at the time. He was moved from the point of capture to the collection point near WOC, where he eventually died whilst being treated by Lance Corporal Muir.²⁸⁸⁶ The dead body of Haydar Al-Lami was the fifteenth body photographed by Captain James Rands at Camp Abu Naji on the 14 May 2004. He was thus given the designation “KIA 15” by Captain Rands. His body can be seen in two photographs taken by Captain Rands that evening, bearing the references ASI000497 and ASI000498.

2.2211 The death certificate for Haydar Al-Lami (deceased 2) lists two causes of death, as follows:²⁸⁸⁷

- a. Several bullets to the body.
- b. Mutilation of the genitals (cutting of the penis).

2.2212 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Haydar Al Lami’s body:

- a. *Blood can be seen on the forearms, with the greater amount to the right hand side. There is also blood on the upper right side of the trousers/pants.*²⁸⁸⁸
- b. *A bandage is visible around the lower chest/upper abdomen possibly with dressings to the left hand side.*²⁸⁸⁹
- c. *Taping can clearly be seen around the left upper forearm.*²⁸⁹⁰
- d. *Blood is visible around the mouth and trailed to the right lower jaw, also from the left corner of the mouth.*²⁸⁹¹
- e. *A possible abrasion is shown on the middle area of the neck.*²⁸⁹²
- f. *There are light brown stains to the right ear, right forehead, right lower eyelid and both hands.*²⁸⁹³
- g. *No evidence of neck ligature, petechiae (Dot haemorrhages typical of asphyxia), specific focal neck bruising or blueness above the neck.*²⁸⁹⁴

2.2213 Dr Jerreat was unable to give a specific cause of death for Haydar Al-Lami, although he did express the opinion that the injuries appeared to be *ante mortem*.²⁸⁹⁵

2.2214 Hatar Moutashar Zeidan Shamekhy Al-Lami (witness 17), Haydar Al-Lami’s father, also gave written and oral evidence to the Inquiry. In his written Inquiry statement, Hatar Al-Lami gave

²⁸⁸⁵ See paragraphs 2.908 – 2.910

²⁸⁸⁶ See paragraphs 2.922 – 2.928

²⁸⁸⁷ MOD007686

²⁸⁸⁸ Dr Jerreat (ASI016669) [62.2]

²⁸⁸⁹ Dr Jerreat (ASI016669) [62.3]

²⁸⁹⁰ Dr Jerreat (ASI016669) [62.4]

²⁸⁹¹ Dr Jerreat (ASI016670) [62.5]

²⁸⁹² Dr Jerreat (ASI016670) [62.6]

²⁸⁹³ Dr Jerreat (ASI016670) [62.7]

²⁸⁹⁴ Dr Jerreat (ASI016670) [62.8]

²⁸⁹⁵ Dr Jerreat (ASI016670) [63.3]

the following detailed account of the injuries that he claimed to have seen when he had washed his son's body for burial:²⁸⁹⁶

"I saw a bullet wound in his right hand side and an exit wound to the left. He had signs of strangulation to his neck. His neck was blue all the way around and the veins were blue and raised. There was then a small gap and then the blueness continued on the chest down to the bottom of the rib cage. Apart from the blueness, there were no other marks on the neck that I could see. He had bruises on both his wrists and upper arms as if his arms had been restrained to the back. I knew from my military experience that this is what had happened.

I was shocked and horrified to see his penis had been cut off at the base, and was placed inside the bag that the body was in."

2.2215 I have no doubt that Haydar Al-Lami (deceased 2) died on the Northern Battlefield. As I have already explained, he was one of the armed insurgents who had engaged British troops from the Storm Drain Position on the west side of Route 6.²⁸⁹⁷ He was mortally wounded in the exchange of fire and died later at the collection point beside WOC, having been moved there from the Storm Drain Position by the British soldiers who had captured him while he was still just alive.²⁸⁹⁸

Deceased 3 – Hameed Mez'el Kareem A'shour Al-Sweady

2.2216 Hameed Mez'el Kareem A'shour Al-Sweady was designated "Deceased 3" by the Inquiry. Hameed Al-Sweady's body was recovered from the Northern Battlefield and was the thirteenth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "KIA 13" by Captain Rands. His body can be seen in three photographs taken by Captain Rands that evening, bearing the references ASI000491, ASI000492 and ASI000493.

2.2217 The death certificate for Hameed Al-Sweady (deceased 3) lists five causes of death, as follows:²⁸⁹⁹

- a. *Gunshot to the neck.*
- b. *Signs of torture.*
- c. *Gunshot to the foot.*
- d. *Breakage of the right (hand) starting from the shoulder.*
- e. *Complete disfigurement of the face.*

2.2218 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Hameed Al-Sweady's body:

- a. *The clothing on the left leg is blood stained, possibly with a wound beneath.*²⁹⁰⁰
- b. *Some of the pubic hair is exposed but there is no obvious injury to the genitalia.*²⁹⁰¹

²⁸⁹⁶ Hatar Moutashar Zeidan Shamekhy Al-Lami (ASI006355-56) [18] – [19]

²⁸⁹⁷ See paragraphs 2.902 – 2.910

²⁸⁹⁸ See paragraph 2.910

²⁸⁹⁹ MOD012535

²⁹⁰⁰ Dr Jerreat (ASI016658) [54.2]

²⁹⁰¹ Dr Jerreat (ASI016658) [54.3]

- c. *The face of the deceased is heavily blood stained.*²⁹⁰²
- d. *An oval injury is visible to the right side lower chest with horizontal blood trails either side.*²⁹⁰³
- e. *There are possible wounds to the left and right side of the lower abdomen with bruising on the left side.*²⁹⁰⁴
- f. *The photograph shows dried blood with smears and trails facially, and possible fresher blood on the right side of the hair and over the right ear.*²⁹⁰⁵
- g. *Possible wound in the inner right eyebrow and above the eyebrow.*²⁹⁰⁶
- h. *In view 0052V12/1 (ASI012424) a possible injury to the back of the right side of the abdomen.*²⁹⁰⁷
- i. *The same view shows KIA-13 (as identified by Diligence Forensic) being carried by two soldiers. The appearance is entirely compatible with them carrying a deceased person or possibly a victim in a deep coma.*²⁹⁰⁸
- j. *Factors against him being alive would be the lack of any blood trail beneath the body being carried, considering the views ASI000491 to ASI000493 where almost all the blood is dried, even in trails.*²⁹⁰⁹
- k. *The position and blood staining of clothing seen in 0052V12/1 (ASI012414) is the same as seen in ASI000491 to ASI000493 relating to comparable areas.*²⁹¹⁰
- l. *Overall I am of the opinion that the view 0052V12/1 (ASI012414) is of a deceased body being carried.*²⁹¹¹
- m. *Video DCM/5 (ASI005972) shows multiple small irregular marks (potential wounds) to the right side of the face, but these are not apparent in the video DCM/8 (ASI005975).*²⁹¹²
- n. *I have also been asked with regards to KIA-13 and video examination whether there is any evidence of hanging or strangulation in videos DCM/5 (ASI005972), DCM/6 (ASI005973) and DCM/8 (ASI005975). In response:*²⁹¹³
- o. *Visible in DCM/5 (ASI005972) at 4:27:33 there is a near horizontal broad line between the 'V' of the shirt.*²⁹¹⁴
- p. *In DCM/8 (ASI005975) 0:00:56 – 1:12 and 0:02:57 – 03:02 and DCM/6 (ASI005973) 0:00:24 – 0:00:12 there are views of a light brown near horizontal line on the right side of the neck at a level between the ear and angle of the lower jaw.*²⁹¹⁵
- q. *It is not clear whether there is a continuation of a thinner line extending forwards towards the front of the neck or if it represents a crease in the skin. In a view at 0:00:23 the brown line has no posterior or anterior extension.*²⁹¹⁶

²⁹⁰² Dr Jerreat (ASI016658) [54.4]

²⁹⁰³ Dr Jerreat (ASI016659) [54.5]

²⁹⁰⁴ Dr Jerreat (ASI016659) [54.6]

²⁹⁰⁵ Dr Jerreat (ASI016659) [54.7]

²⁹⁰⁶ Dr Jerreat (ASI016659) [54.8]

²⁹⁰⁷ Dr Jerreat (ASI016659) [54.9]

²⁹⁰⁸ Dr Jerreat (ASI016659) [54.10]

²⁹⁰⁹ Dr Jerreat (ASI016659) [54.11]

²⁹¹⁰ Dr Jerreat (ASI016660) [54.12]

²⁹¹¹ Dr Jerreat (ASI016660) [54.13]

²⁹¹² Dr Jerreat (ASI016660) [54.14]

²⁹¹³ Dr Jerreat (ASI016660) [54.15]

²⁹¹⁴ Dr Jerreat (ASI016660) [54.16]

²⁹¹⁵ Dr Jerreat (ASI016660) [54.17]

²⁹¹⁶ Dr Jerreat (ASI016660) [54.18]

- r. *There is no evidence of a ligature type injury encircling the neck, no cyanosis (blue discolouration) above the neck mark or any change in colour from below the mark to above the mark which could indicate congestion of tissues above a constricting force.*²⁹¹⁷
- s. *There was no evidence of fingertip type bruising in the areas seen.*²⁹¹⁸
- t. *In my opinion the injury seen was likely to be post mortem.*²⁹¹⁹

2.2219 With regard to the cause of Hamid Al-Sweady's death, Dr Jerreat said this:

*'A probable cause of death could be haemorrhage due to multiple injuries...which is likely to have been caused ante mortem.'*²⁹²⁰

2.2220 Both Hamid Al-Sweady's father, Miz'al Karim Ashoor Al-Sweady (witness 2), and his uncle, Khuder Karim Ashoor Al-Sweady (witness 1), gave detailed evidence to me with regard to the injuries they claimed to have seen on Hamid Al-Sweady's body. In his written Inquiry statement, Miz'al Al-Sweady (witness 2) told me that, when he washed his son's body for burial, he had noticed the following injuries:

"On his head I noticed that his right jaw was fractured. There was no wound or bruising but I saw it was completely dislocated and distorted. There were no other facial injuries, his eyes were intact.

He had a bullet wound in the middle of his neck. There was a single hole with signs of burning around it. It was on the right hand side of his neck. At first I was unsure whether or not this injury was a bullet wound. The medical report recorded it as being so and it being the cause of death. I examined the wound when I was washing Hamid's body and I saw a small hole in his neck. The size was similar to that of a biro pen where it just begins to narrow down from the shaft to the point. I am unable to say how deep it was but it had not gone through his neck. It looked as though it had exploded inside of his neck. I have been asked if it could be metal shrapnel from an explosion or other foreign body but I am adamant it was a bullet wound.

He had marks around his neck and chest, resembling a necklace and the skin appeared to be burnt black. It looked as though he had been electrocuted with electric wire, although no wire was present.

His right arm was completely fractured, half way up it. It was causing the end of his arm to be limp and floppy. I could see no wound or bruising.

His left arm was unharmed. He was wearing a grey short sleeved shirt so I could see his arms clearly. Neither hand was marked in any way, all his fingers were present.

His chest had blueness and bruises over it. There were a lot of marks over his chest. I did not count them. It looked as though he had been beaten. There was no sign of any footprints on his chest or anywhere else on his body. His stomach was un-harmed.

His back had no injuries on it. His genital area was intact, with no injury.

²⁹¹⁷ Dr Jerreat (ASI016661) [54.19]

²⁹¹⁸ Dr Jerreat (ASI016661) [54.20]

²⁹¹⁹ Dr Jerreat (ASI016661) [54.21]

²⁹²⁰ Dr Jerreat (ASI016661) [55.3]

His left leg was unharmed but he had been shot in the right leg. He was wearing grey trousers which were covered in blood and were torn into strips around the injury. Upon washing his body later I saw that he had been shot with a single bullet on the outside of his right calf. There was no exit wound. I assume the bullet was still in him, I did not remove it. I am unable to state this because I was overwhelmed with grief. I have been asked if this wound could have been caused by shrapnel from an explosion or other foreign body. I am adamant it was a bullet wound. I did not see the bullet in his leg.”²⁹²¹

2.2221 In his first written Inquiry statement, Khuder Al-Sweady said this:²⁹²²

“In my professional opinion the following were signs of hanging, the bruises or line around the neck this indicates the presence of something surrounding the neck and that thing belongs to the British forces. For instance a cord or another similar thing. I would describe this trace around the neck as being about 4-5 millimetres in width.

Hamid’s other injuries include a bullet hole to the outside of the upper calf muscle of his right leg but this would not lead to death. There were also signs of torture on his chest, there were also bruises by a boot to his forehead and on the chest and one of his arms was broken. There was also the hole in his neck which I do not think was a bullet hole. I think it was a sharp tool – it penetrated the right hand side of his neck in two places about 10 centimetres apart (horizontally, had he been standing). I have demonstrated this to the video during my interview. This wound appeared to penetrate both the skin and the muscle. I would say the primary cause of death was hanging and torture.”

2.2222 In his second written Inquiry statement, Khuder Al-Sweady added the following detail to his earlier account:

“I would add to the description of the incision in my nephew’s neck that the incision was about the size of a sharp pen stabbed into his neck. It clearly was not a wound from a bullet. I would also say that there were tread marks from Army boots all over his body. Also, normally, the body will lie at rest as we wash it. It is as if the person is lying in bed. We had Hameed lain out like this however his head kept slumping to one side as there was obviously no support in his broken neck”²⁹²³

2.2223 When he gave his oral evidence to the Inquiry, Khuder Al-Sweady said that he thought the bullet wound had been to Hameed Al-Sweady’s left leg, rather than to his right.²⁹²⁴ He also added that Hameed Al-Sweady had sustained a broken jaw.²⁹²⁵

2.2224 However, as I have already explained, I have no doubt that Hamid Al-Sweady’s dead body was recovered from the Storm Drain Position on the Northern Battlefield, where he had been killed in an exchange of fire with British forces, whilst he was actively participating in the armed ambush of British troops on 14 May 2004 that gave rise to the Battle of Danny Boy.²⁹²⁶ As I have already indicated, I have no doubt that photograph ASI011939 shows his dead body being carried by two British soldiers, after it had been recovered from where he died in the Storm Drain Position that day.²⁹²⁷

²⁹²¹ Miz’al Karim Ashoor Al-Sweady (ASI001129-30) [20] – [27]

²⁹²² Khuder Karim Ashoor Al-Sweady (ASI001099) [69] – [70]

²⁹²³ Khuder Karim Ashoor Al-Sweady (PIL000647) [76]

²⁹²⁴ Khuder Karim Ashoor Al-Sweady [21/76]

²⁹²⁵ Ibid

²⁹²⁶ See paragraph 2.1314

²⁹²⁷ See Figure 55 – (ASI011939)

2.2225 There is therefore no doubt that Khuder Al-Sweady's assertion, that the primary cause of Hameed Al-Sweady's death was "*hanging and torture*," is clearly and completely untrue. In my view, there was no proper basis upon which Khuder Al-Sweady could have honestly and objectively reached such a conclusion and he must have known that full well at the time he made the assertion in question. Furthermore, Khuder Al-Sweady deliberately endeavoured to add substance to that particular false assertion by expressing it as his "*professional opinion*." In doing so, he acted recklessly and without any proper evidential and scientific basis for expressing such an opinion. As in the case of his false allegation that the British had used microbiological/chemical weapons,²⁹²⁸ Khuder Al-Sweady thus clearly demonstrated yet again his readiness to make very serious and wholly unfounded allegations about the conduct of the British forces and to do so without any regard for the truth.

Deceased 4 – Ali Jasem Khalloufi Khreibet Al-Alyawi Al-Jamindari

2.2226 Ali Jasem Khalloufi Khreibet Al-Alyawi Al-Jamindari was designated "*Deceased 4*" by the Inquiry. Ali Al-Jamindari's body was recovered from the Northern Battlefield and was the twentieth and final body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "*KIA 20*" by Captain Rands. His body can be seen in two photographs taken by Captain Rands, bearing the references ASI000512 and ASI000513.

2.2227 The death certificate for Ali Al-Jamindari (deceased 4) lists four causes of death, as follows:²⁹²⁹

- a. *Several bullets to the face and head and the body.*
- b. *Cut traces on the neck with a big hole in the right cheek.*
- c. *Removal of the right eye.*
- d. *Cutting of the right (hand) starting from the shoulder.*

2.2228 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Ali Al-Jamindari's body:

- a. *Blood can be seen on the clothing, chest, abdomen, right arm and hand of the deceased.*²⁹³⁰
- b. *There is also blood on the face.*²⁹³¹
- c. *There is an irregular edged wound to the face involving the right cheek below both nostrils and the upper lip. This appears to be a left to right raking track.*²⁹³²
- d. *An almost rectangular neck wound is visible; this is possibly a missile exit wound.*²⁹³³
- e. *The right eye is bruised and collapsed, the eyeball not visible. The facial bones are possibly distorted.*²⁹³⁴
- f. *Several small linear wounds can be seen on the neck.*²⁹³⁵

2.2229 In relation to the cause of Ali Al-Jamindari's death, Dr Jerreat stated:

²⁹²⁸ See paragraphs 2.1662 – 2.1665

²⁹²⁹ MOD007691

²⁹³⁰ Dr Jerreat (ASI016692) [82.2]

²⁹³¹ Dr Jerreat (ASI016692) [82.3]

²⁹³² Dr Jerreat (ASI016692) [82.4]

²⁹³³ Dr Jerreat (ASI016692) [82.5]

²⁹³⁴ Dr Jerreat (ASI016692) [82.6]

²⁹³⁵ Dr Jerreat (ASI016693) [82.7]

*"A probable cause of death is haemorrhage from facial and neck wounds...which is likely to have been caused ante mortem."*²⁹³⁶

2.2230 Ali Al-Jamindari's wife, Taghreed Abdel-Wahed Idan (witness 21), and his father, Jasem Khalloufi Khreibet Al-Alyawi Al-Jamindari (witness 19) each gave both written and oral evidence to the Inquiry about Ali Al-Jamindari's injuries. In her written Inquiry statement, Taghreed Idan (witness 21) described what she had seen when Ali Al-Jamindari's body was brought to her house on 15 May 2004, in the following terms:²⁹³⁷

"I saw he was wearing the same creamy coloured shirt that he had been wearing the day before. The shirt was covered in blood. I saw that his hand was severely damaged and was hanging by a thread; it had been cut but it was still hanging. I cannot remember now which hand it was. Ali also had a cut on his neck as if someone had used a knife to slaughter him.

I saw that one of Ali's eyes was missing; I cannot recall which one. He also had facial injuries but I cannot recall what these were – I was so distraught when I saw his body; his body was totally mutilated. I do not remember seeing any wounds that looked like bullet wounds. I only saw his body from the top of his head to his waist."

2.2231 When he gave a statement to the Royal Military Police in December 2004, Jasem Al-Jamindari (witness 19) had said this:

*"Whilst washing my son's body I noticed that he had 2 bullet wounds on the right hand side of his chest. Both of his hands had been broken. His neck had been cut. His eyes had been removed and some of his teeth removed."*²⁹³⁸

2.2232 However, in his written Inquiry statement, Jasem Al-Jamindari's evidence was markedly different, as follows:

*"I did not at any time see my son's body or any injuries on my son's body. My family did not want me to see my son's body and no one ever told me what injuries my son had. At that time I had heart problems and was totally distraught about my son's death and the family thought that it would affect my health if I saw him. I was very emotional. Who knows what would have happened to me if I had seen my son's body? Even today I have no knowledge of the injuries to Ali's body."*²⁹³⁹

2.2233 During his oral evidence to the Inquiry, Jasem Al-Jamindari confirmed that he did not see his son's body.²⁹⁴⁰ He said that he did tell the Royal Military Police that which had been recorded in the statement that he had made to them and that they had wrongly recorded the information in question.²⁹⁴¹

2.2234 Since the body of Ali Al-Jamindari was one of the last of the dead bodies to arrive at Camp Abu Naji and be photographed by Captain Rands that evening, it is clear that he was killed during the Northern Battle. I have no doubt that he had been an active and willing participant in the ambush of British forces that had been carried out by armed insurgents on 14 May 2004 and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one

²⁹³⁶ Dr Jerreat (ASI016693) [83.3]

²⁹³⁷ Taghreed Abdel-Wahed Idan (ASI006451) [21] – [22]

²⁹³⁸ Jasem Khalloufi Khreibet Al-Alyawi Al-Jamindari (MOD012567)

²⁹³⁹ Jasem Khalloufi Khreibet Al-Alyawi Al-Jamindari (ASI006366) [18]

²⁹⁴⁰ Jasem Khalloufi Khreibet Al-Alyawi Al-Jamindari [29/10]

²⁹⁴¹ Jasem Khalloufi Khreibet Al-Alyawi Al-Jamindari [29/16]

of the armed insurgents who were actually killed in or in the near vicinity of Trench 1 and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 5 – Abbas Atti Rahima Al-Hejeimi Al-Mozani

2.2235 Abbas Atti Rahima Al-Hejeimi Al-Mozani was designated “Deceased 5” by the Inquiry. His body was recovered from the Southern Battlefield and was the eleventh body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation “KIA 11” by Captain Rands. His body can be seen in two photographs taken by Captain Rands, bearing the references ASI000487 and ASI000488.

2.2236 The death certificate for Abbas Atti Al-Mozani (deceased 5) lists two causes of death, as follows:²⁹⁴²

- a. Several bullets to the head and body.
- b. Disfigurement of the face.

2.2237 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Abbas Al-Mozani’s body:

- a. *There is a possible wound with hole in the right side upper trouser with possible entrance wound at upper outer margin of the hole.*²⁹⁴³
- b. *There is blood visible on the magazine pouch (which I believe is for an AK47 weapon).*²⁹⁴⁴
- c. *Blood can be seen coming from the nostrils with trails and smears.*²⁹⁴⁵
- d. *Two possible penetrating wounds can be seen to the left cheek and a further wound below the mid lower lip. These injuries could be fragment injuries from a blast.*²⁹⁴⁶
- e. *There is blood on left side of the neck and adjacent clothing; it is possible a wound is present.*²⁹⁴⁷
- f. *Blood is shown on the ground to the side of the left ear.*²⁹⁴⁸

2.2238 With regard to the cause of Abbas Al-Mozani’s death, Dr Jerreat said this:

*“It is not possible to be specific about a potential cause of death but it could relate to haemorrhage as a result of various injuries...which is likely to have been caused ante mortem.”*²⁹⁴⁹

2.2239 Ali Atti Raheema Al-Mozani (witness 119), the brother of Abbas Al-Mozani, provided both written and oral evidence to the Inquiry about the condition of his brother’s body. In his written Inquiry statement, Ali Al-Mozani described the injuries that he claimed to have seen on his brother’s body, in the following terms:²⁹⁵⁰

²⁹⁴² MOD007694

²⁹⁴³ Dr Jerreat (ASI016651) [46.2]

²⁹⁴⁴ Dr Jerreat (ASI016651) [46.3]

²⁹⁴⁵ Dr Jerreat (ASI016651) [46.4]

²⁹⁴⁶ Dr Jerreat (ASI016651) [46.5]

²⁹⁴⁷ Dr Jerreat (ASI016651) [46.6]

²⁹⁴⁸ Dr Jerreat (ASI016652) [46.7]

²⁹⁴⁹ Dr Jerreat (ASI016652) [47.3]

²⁹⁵⁰ Ali Atti Raheema Al-Mozani (PIL000602-PIL000603) [34] – [37]

'Abbas Atti Rahima Al-Mozani had a small sized wound on his shoulder. It looked like it was caused by a fire shot. As far as I recall the wound was on Abbas Atti Rahima Al-Mozani's left side...There was a lot of blood around the wound on Abbas Atti Rahima Al-Mozani's shirt...

There was also a small bit of blood on Abbas Atti Rahima Al-Mozani's nose. It appeared to be coming out of the nose and it was already dry. I do not recall if the nose was broken but I remember the blood...

There was blood on Abbas Atti Rahima Al-Mozani's teeth. I do not know if it was due to a blow but I saw blood on his teeth...

I do not recall seeing areas of bruising but Abbas Atti Rahima Al-Mozani's skin had changed colour because he was dead. The skin was paler than in life. I do not recall seeing any further injuries.'

2.2240 Since Abbas Al-Mozani (deceased 5) was amongst the first group of dead bodies to be photographed by Captain Rands that evening, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he had been an active and willing participant in the armed ambush that was carried out by armed insurgents on British forces that day and that he died in the resulting fighting. In my view, it is likely that he was actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he fell. It is not possible to be more precise as to where he died than that, on the available evidence.

Deceased 6 – Husain Aziz Mu'bed Ali Al-A'mshani

2.2241 Husain Aziz Mu'bed Ali Al-A'mshani was designated "Deceased 6" by the Inquiry. Husain Al-A'mshani's body was recovered from the Southern Battlefield and was the twelfth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "KIA 12" by Captain Rands. His body can be seen in two photographs taken by Captain Rands, bearing the references ASI000489 and ASI000490.

2.2242 The death certificate for Husain Al-A'mshani (deceased 6) lists one cause of death, as follows:²⁹⁵¹

Bullet to the head, face and chest.

2.2243 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Husain Al-A'mshani's body:

- a. *The clothing is generally blood stained mainly to the trunk and right arm areas.*²⁹⁵²
- b. *Specifically the clothing in the upper chest region is very wet with blood, also the clothing around the neck and the skin on the neck and face of this person.*²⁹⁵³
- c. *The left ear is disrupted.*²⁹⁵⁴
- d. *A possible gunshot entrance wound is visible on the middle of the left eyebrow.*²⁹⁵⁵

²⁹⁵¹ MOD007699

²⁹⁵² Dr Jerreat (ASI016654) [50.2]

²⁹⁵³ Dr Jerreat (ASI016654) [50.3]

²⁹⁵⁴ Dr Jerreat (ASI016655) [50.4]

²⁹⁵⁵ Dr Jerreat (ASI016655) [50.5]

- e. *There are possible wounds to the outer area of the right eyebrow, outside of the right eye and epidermal skin loss outer right cheek.*²⁹⁵⁶
- f. *Blood is visible in both nostrils and there is possible distortion of the nose.*²⁹⁵⁷
- g. *There appears to be deformity of the left upper arm/shoulder but this is hard to confirm with clothing present.*²⁹⁵⁸
- h. *A singed appearance or dust contamination is visible to the right side of the head hair but the ear is apparently not heat damaged.*²⁹⁵⁹
- i. *There is grey staining within the white clothing at the neck and grey material on blood stained upper right clothing which could be deposits from blast.*²⁹⁶⁰

2.2244 With regard to the cause of Husain Al-A'mshani's death, Dr Jerreat said this:

*"A probable cause of death would be haemorrhage due to multiple injuries...which is likely to have been caused ante mortem."*²⁹⁶¹

2.2245 Rashak Al-Amshani (witness 199), the brother of Husain Al-A'mshani (deceased 6), provided both written and oral evidence to the Inquiry about the condition of his brother's body. In his written Inquiry statement, Rashak Al-Amshani gave the following description of the injuries that he claimed to have seen on his brother's body:²⁹⁶²

"Husain Aziz Mu'bed Ali Al-A'mshani had two shots to the chest area. I cannot recall whether these shots were on the left or the right side of Husain Aziz Mu'bed Ali Al-A'mshani's body..."

One of Husain Aziz Mu'bed Ali Al-A'mshani's eyes was wide open and the other eye was shut closed. A thin red fleshy piece of skin was coming out of the closed eye. I did not open the eye to check if Husain Aziz Mu'bed Ali Al-A'mshani's eyeball was there but I felt like it was not. When I saw this I tried not to focus on it. I really tried to avoid seeing it. There was not blood coming from the eye but I was doing everything I could not to look at it...I cannot recall which side I saw the injury to Husain Aziz Mu'bed Ali Al-A'mshani's eye...

I also recall seeing grazes on my brother's face...I cannot recall which side of his face these injuries were on. On the other side of the face I recall seeing a bruise. Again I do not recall the side...

When I lifted Husain Aziz Mu'bed Ali Al-A'mshani's head, as I lifted him out of the body bag, I remember seeing an open wound on the back of his neck. It looked as though something sharp had been used to cut him...The flesh was exposed and open. I do not know exactly what could have caused this injury. It was definitely not a fire shot but more like a blade that could slice the flesh."

2.2246 Since Husain Al-A'mshani (deceased 6) was amongst the first group of dead bodies to be photographed by Captain Rands that evening, it is clear that his body was one of those

²⁹⁵⁶ Dr Jerreat (ASI016655) [50.6]

²⁹⁵⁷ Dr Jerreat (ASI016655) [50.7]

²⁹⁵⁸ Dr Jerreat (ASI016655) [50.8]

²⁹⁵⁹ Dr Jerreat (ASI016655) [50.9]

²⁹⁶⁰ Dr Jerreat (ASI016655) [50.10]

²⁹⁶¹ Dr Jerreat (ASI016656) [51.3]

²⁹⁶² Rashak Al-Amshani (PIL001010-11) [57] – [60]

collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British forces that had been carried out by armed insurgents that day and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 7 – Jassem Muhammad Hamdan Darwish Al-A'mshani

2.2247 Jassem Muhammad Hamdan Darwish Al-A'mshani was designated "Deceased 7" by the Inquiry. Jassem Al-A'mshani's body was recovered from the Northern Battlefield and was the seventeenth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "KIA 17" by Captain Rands. His body can be seen in two photographs taken by Captain Rands, bearing the references ASI000502 and ASI000503.

2.2248 The death certificate for Jassem Al-A'mshani (deceased 7) lists one cause of death, as follows:²⁹⁶³

Bullet to the chest, abdomen and head.

2.2249 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Jassem Al-A'mshani's body:

- a. *There is blood visible behind the right hand side of the head and spots above the head.*²⁹⁶⁴
- b. *Blood can be seen on the mid upper chest of the clothing.*²⁹⁶⁵
- c. *There is blood visible on the upper left thigh area of the clothing.*²⁹⁶⁶
- d. *The deceased's testicles are exposed.*²⁹⁶⁷
- e. *Blood can be seen outside on the left thigh and there is a trail on the inner right thigh.*²⁹⁶⁸
- f. *Three potential missile wounds are visible on the little finger side of the right hand.*²⁹⁶⁹
- g. *There is blood on the face, in both nostrils and on the teeth.*²⁹⁷⁰
- h. *Possible wound to the inner upper right eyelid.*²⁹⁷¹
- i. *A linear wound can be seen to the lower right side of the face above the lower jaw and a further linear area nearer the midline on lower jaw and also in front of the right ear.*²⁹⁷²
- j. *There are possible wounds to right lower cheek and on the mid lower lip.*²⁹⁷³
- k. *Possible wounds can be seen to the upper forehead to the right of midline.*²⁹⁷⁴

²⁹⁶³ MOD007703

²⁹⁶⁴ Dr Jerreat (ASI018545) [17.2]

²⁹⁶⁵ Dr Jerreat (ASI018546) [17.3]

²⁹⁶⁶ Dr Jerreat (ASI018546) [17.4]

²⁹⁶⁷ Dr Jerreat (ASI018546) [17.5]

²⁹⁶⁸ Dr Jerreat (ASI018546) [17.6]

²⁹⁶⁹ Dr Jerreat (ASI018546) [17.7]

²⁹⁷⁰ Dr Jerreat (ASI018546) [17.8]

²⁹⁷¹ Dr Jerreat (ASI018546) [17.9]

²⁹⁷² Dr Jerreat (ASI018546) [17.10]

²⁹⁷³ Dr Jerreat (ASI018546) [17.11]

²⁹⁷⁴ Dr Jerreat (ASI018547) [17.12]

- I. *Two missile type holes are visible in the upper right side of the midline clothing.*²⁹⁷⁵

2.2250 With regard to the cause of Jassem Al-A'mshani's death, Dr Jerreat said this:

*"A probable cause of death could be head injuries...which is likely to have been caused ante mortem."*²⁹⁷⁶

2.2251 Bushra Sakher Katem (witness 26), Jassem Al-A'mshani's wife, and his mother, Sabrah Maryoosh Hussein (witness 28), both provided written and oral evidence to the Inquiry about the condition of Jassem Al-A'mshani's body. In her first written Inquiry statement, Bushra Katem described the injuries she claimed to have seen on her husband's body, when it was brought to her home on 15 May 2004, as follows:²⁹⁷⁷

"His body showed signs of torture and his whole body appeared "torn up" including his feet and arms. I only concentrated on the head and the bullet holes in his abdomen.

He had been shot on one side of his head, close to his forehead; I'm not sure which side, but it was close to the eyebrow. It was a small hole (about the size of the end of my small finger), definitely a bullet entry hole with burn marks around it. At the back of the head, was a large exit wound there was nothing left of the back of his head to support it, therefore it was lying back at an angle. It was horrible.

His hands were tied with a thin black plastic rope which was still attached to his wrists. I cannot remember if the hands were tied to the front or back of his body.

He had two (2) or more holes on the right side and the same on the left side of his abdomen, these may have been made by bullets but I'm not sure. The holes were completely dark with black burns around them. When I leant in close, I could smell the smell of smell [sic] of burnt flesh."

2.2252 During her oral evidence to the Inquiry, Bushra Katem confirmed that Jassem Al-A'mshani's body had appeared to be "torn up", because of the large number of bullet wounds to his body.²⁹⁷⁸ Taken as a whole, it can clearly be seen from Captain Rands' photographs that the dead bodies did not have their hands or ankles tied in any way. Furthermore, given that I have no doubt that all the bodies were collected after they were dead (with the exception of Haydar Al-Lami (deceased 2)), I am sure that there was no reason for any of the ankles or wrists to be tied in any way and that this was not done by any of the soldiers to any of the bodies at any stage. Accordingly, I am sure that Bushra Katem's allegation that Jassem Al-A'mshani's hands had still been tied with a "thin black plastic rope" was a deliberate lie, intended to support a false claim that Jassem Al-A'mshani was one of the Iraqi men alleged to have been captured alive by the British military on 14 May 2004 and then unlawfully killed at Camp Abu Naji that night, an allegation that was entirely false.

2.2253 In her written Inquiry statement, Sabrah Hussein also described the injuries that she claimed to have seen on her son's body, as follows:²⁹⁷⁹

²⁹⁷⁵ Dr Jerreat (ASI018547) [17.13]

²⁹⁷⁶ Dr Jerreat (ASI018547) [18.3]

²⁹⁷⁷ Bushra Sakher Katem (ASI008062) [24] – [28]

²⁹⁷⁸ Bushra Sakher Katem [43/25]

²⁹⁷⁹ Sabrah Maryoosh Hussein (ASI008172) [25] – [26]

"I could see clearly that he had been shot in the right side of his temple close to his eye. The whole of his head at the back, on the right was missing. This meant that his head flopped back.

His body was injured on his right side from his waist down to his knees, it looked to me as if an iron bar had been used to torture him or burn him. There was blood around his head. There was no blood around his stomach, it looked as if the skin had been burnt like grilled meat, dark and burnt. There were at least three (3) or four (4) holes on his abdomen and leg, possibly more. The bag his body was brought home in also had blood inside it."

2.2254 Since the body of Jassem Al-A'mshani (deceased 7) was one of the last of the dead bodies to arrive at Camp Abu Naji on 14 May 2004 and be photographed by Captain Rands that evening, it is clear that he was killed during the Northern Battle. I have no doubt that he was an active participant in the ambush of British troops that had been carried out by armed insurgents on 14 May 2004 and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed in or in the near vicinity of Trench 1 and that his dead body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 8 – Ali Mawat Muhammad Ghudeib Al-Mozani

2.2255 Ali Mawat Muhammad Ghudheib Al-Mozani was given the identifier "Deceased 8". His body was recovered from the Northern Battlefield and was the sixteenth body photographed by Captain James Rands at Camp Abu Naji, thus giving him the designation "KIA 16" by Captain Rands. His body can be seen in three photographs taken by Captain Rands, bearing the references ASI000499, ASI000500 and ASI000501.

2.2256 The death certificate produced for Ali Al-Mozani (deceased 8) lists three causes of death, as follows:²⁹⁸⁰

- a. *Several bullets in all parts of the body.*
- b. *Change of the body complexion to blue.*
- c. *Signs of torture and beating on the right side of the body under the arm (armpit).*

2.2257 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Ali Al-Mozani's body:

- a. *Blood stains can be seen on the face with trails from the right nostril, mouth and on right ear.*²⁹⁸¹
- b. *There are visible blood stains on white vest.*²⁹⁸²
- c. *Blood and dirt type stains can be seen on the trousers, there is also damage to trousers.*²⁹⁸³
- d. *A possible gunshot exit wound is shown by skin deformity on inner aspect of right upper arm and a possible entrance wound on the outer aspect.*²⁹⁸⁴

²⁹⁸⁰ MOD007707

²⁹⁸¹ Dr Jerreat (ASI016674) [66.3]

²⁹⁸² Dr Jerreat (ASI016674) [66.4]

²⁹⁸³ Dr Jerreat (ASI016674) [66.5]

²⁹⁸⁴ Dr Jerreat (ASI016674) [66.6]

- e. *A blood trail is visible on the left forearm.*²⁹⁸⁵
- f. *The genitalia are partly exposed with a possible injury above penis and at base of glands.*²⁹⁸⁶

2.2258 Dr Jerreat was unable to comment on the cause of Ali Al-Mozani's death.²⁹⁸⁷

2.2259 Kamil Mowat Mohammed Al-Mozani (witness 30), Ali Al-Mozani's brother, provided both written and oral evidence to the Inquiry about the condition of Ali Al-Mozani's body. In his written Inquiry statement, Kamil Al-Mozani described various of his brother's injuries that he claimed to have seen with his own eyes and other injuries that he said he had been told about by others, as follows:²⁹⁸⁸

"I had difficulty remaining at the washing as I was so upset. I do recall he had a bullet wound somewhere on his forehead and I saw a mark that resembled a bite mark on his right shoulder. I saw blue bruising down his right hand side and a shoe mark on his left side. There were marks on his back as though he had been dragged through rough soil. His testicles were extremely swollen. The people washing the body were constantly turning him over and consequently each person would have seen different injuries. They told me more about the injuries later but were reluctant to tell me at the time as I was so upset. Sami is in a position to give a full account of the injuries found on Ali's body.

I am told those injuries were:

A bullet wound to the forehead with an exit wound at the rear

Serious bruising to the right hand side of his torso

A shoe print on the left hand side of his torso

Drag marks on his back

A broken right arm

Marks on his wrist as though he had been handcuffed

Extremely swollen and bruised testicles

A mark that resembled a bite mark – I cannot say whether it resembled a human or a dog bite."

2.2260 Since the body of Ali Al-Mozani (deceased 8) was one of the last of the bodies to arrive at Camp Abu Naji on 14 May 2004 and be photographed by Captain Rands that evening, it is clear that he was killed during the Northern Battle. I have no doubt that he was an active and willing participant in the ambush of British troops that had been carried out by armed insurgents on 14 May 2004, that he was killed by British fire in the resulting fighting and that his body was collected from where he had fallen that day.

²⁹⁸⁵ Dr Jerreat (ASI016674) [66.7]

²⁹⁸⁶ Dr Jerreat (ASI016675) [66.8]

²⁹⁸⁷ Dr Jerreat (ASI016675) [67.3]

²⁹⁸⁸ Kamil Mowat Mohammed Al-Mozani (ASI006385-86) [46] – [47]

2.2261 On the available evidence, it is highly likely that Ali Al-Mozani (deceased 8) was actually killed in the Storm Drain Position. In an earlier part of this Report,²⁹⁸⁹ I included the photograph ASI011938. As I explained in that part of this Report, I am satisfied that this photograph was taken by Private Stuart Taylor from the turret of W22 and that it shows a dead body being loaded into W30 at the Storm Drain Position. Although the photograph is not clear, the body in it appears to be wearing a white shirt, dark trousers and white shoes. The shirt and trousers are consistent with the clothing that Ali Al-Mozani had been wearing when his body was photographed by Captain Rands at Camp Abu Naji on the evening of 14 May 2004.²⁹⁹⁰ I am satisfied that Ali Al-Mozani's body was the only one collected from the Northern Battlefield that was photographed at Camp Abu Naji that evening in clothes similar to these.

2.2262 The clothing seen in this photograph is also consistent with the following account of Ali Al-Mozani's clothing, as described by Assad Mozan Khalait Al-Kaabi (witness 78) when he saw Ali Al-Mozani's body at the Al-Sadr hospital on 15 May 2004:

*"He was wearing the same black or dark blue pants and a silver or grey shirt that he had been wearing earlier in the day. I didn't see what footwear he had on at this time. In the morning he had been wearing sandals, but when I later saw his body at Al-Sadr hospital he was wearing trainers."*²⁹⁹¹

2.2263 For these reasons, I am satisfied that the photograph ASI011938 shows Ali Al-Mozani's body being loaded into W30 at the Storm Drain Position. I am therefore also satisfied that this was the location from which he engaged the British forces that day, as one of a number of armed insurgents, and that it was where he was killed as a result of the return of fire by the British.

Deceased 9 – Hassan Radhi Khafeef Al-Keemy Al-Aosi

2.2264 Hassan Radhi Khafeef Al-Keemy Al-Aosi was designated "Deceased 9" by the Inquiry. His body was recovered from the Southern Battlefield and was the ninth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "KIA 9" by Captain Rands. His body can be seen in one photograph taken by Captain Rands, bearing the reference ASI000481.

2.2265 The death certificate produced for Hassan Al-Aosi (deceased 9) lists two causes of death, as follows:²⁹⁹²

- a. *Several bullets in all parts of the body and head.*
- b. *A hole in the right side of the body at close range.*

2.2266 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Hassan Al-Aosi's body:

- a. *The clothing is heavily soaked in blood and there is also blood visible on the skin.*²⁹⁹³
- b. *The clothing is torn near to the left knee with a wound beneath.*²⁹⁹⁴

²⁹⁸⁹ See Figure 43 – (ASI011938)

²⁹⁹⁰ (ASI000499); (ASI000500) and (ASI000501)

²⁹⁹¹ Assad Mozan Khalait Al-Kaabi (PIL000347) [29]

²⁹⁹² MOD007710

²⁹⁹³ Dr Jerreat (ASI016643) [38.2]

²⁹⁹⁴ Dr Jerreat (ASI016643) [38.3]

c. *There appears to be a missile/shrapnel type injury to left ring finger.*²⁹⁹⁵

2.2267 With regard to the cause of Hassan Al-Aosi's death, Dr Jerreat said this:

*"A probable cause of death could be haemorrhage due to multiple injuries...which is compatible with having been caused ante mortem."*²⁹⁹⁶

2.2268 Saad Radhi Khafeef Al-Keemy (witness 33), Hassan Al-Aosi's brother, provided both written and oral evidence to the Inquiry about the condition of Hassan Al-Aosi's body. In his written Inquiry statement, Saad Al-Keemy provided the following details of the injuries that he claimed to have seen on his brother's body, when it was brought to his house:²⁹⁹⁷

"As I looked for his tattoos on his upper arms, I saw that Hassan had a cut to his left shoulder and the blood around the cut was red and fresh. The cut was large and his arm was hanging off his shoulder by small veins and nerves; it had almost been severed. The bed we had placed Hassan on became covered in blood and this made me think that the blood was fresh.

There was a hole on either side of Hassan's head, on his temples. It did not appear to me to be a gunshot wound but it looked as though he had been pierced with something sharp. The holes were round and the same size as my thin cigarettes, smaller than a biro. Hassan had one (1) tooth missing. Both of his eyes appeared as if they had been beaten – there was swelling around both of his eyes making his eyes appear small.

There was a large cut at the bottom of Hassan's throat, near to his collarbone. Later on, when I prepared his body for burial, I saw that he had scratches on his back as though someone had scratched his skin. He also had bruises on his on his [sic] abdomen.

Hassan had a bullet wound to each leg and a bullet wound to the side of his abdomen from front to back."

2.2269 Since the body of Hassan Al-Aosi (deceased 9) was among the first group of 12 dead bodies to arrive at Camp Abu Naji on 14 May 2004 and be photographed by Captain Rands that evening, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British forces that had been carried out by armed insurgents that day and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.²⁹⁹⁸

Deceased 10 – Firas Radhi Kahyoush Shazar Al-Grawi

2.2270 Firas Radhi Kahyoush Shazar Al-Grawi was designated "Deceased 10" by the Inquiry. Firas Al-Grawi's body was not recovered from the battlefield by British soldiers and thus his body does not appear in any of the photographs that were taken by Captain Rands at Camp Abu Naji on the evening of 14 May 2004. He is one of the eight deceased Iraqi men who undoubtedly

²⁹⁹⁵ Dr Jerreat (ASI016643) [38.4]

²⁹⁹⁶ Dr Jerreat (ASI016643) [39.3]

²⁹⁹⁷ Saad Radhi Khafeef Al-Keemy (ASI006438-39) [38] – [41]

²⁹⁹⁸ See paragraphs 2.1685 – 2.1698

died in the course of the Battle of Danny Boy, but whose dead bodies were not amongst those taken back to Camp Abu Naji that night. In Part 2, Chapter 2 of this Report, I have already set out the details of what is known about each of these 8 individuals. The details relating to Firas Radhi Kahyoush Shazar Al-Grawi (deceased 10) are set out in paragraphs 2.86 to 2.99 of that Chapter.

2.2271 The death certificate produced for Firas Al-Grawi (deceased 10) lists one cause of death, as follows:²⁹⁹⁹

Gunshot to the head, entrance wound from the front, exit wound from the back.

2.2272 Since Firas Al-Grawi's body does not appear in any of the photographs taken by Captain Rands at Camp Abu Naji on 14 May 2004, Dr Jerreat was not asked to comment on his injuries or on the cause of his death.

2.2273 Najei Radhi Kahyoush Shazar Al-Grawi (witness 39), Firas Al-Grawi's brother, provided written evidence to the Inquiry about the injuries that he claimed to have seen on his brother's body, as follows:³⁰⁰⁰

"I saw that there was a bullet wound to his head just above his right eye, the exit wound of this being at the base of the back of his head. There was also a bullet entry wound to his left shoulder, and I think the exit point was his back but I could not clearly see where, because of the blood. There were other injuries to the body of a minor nature. I can only describe them as small scratches on the chest. They were not bullet holes.

According to what my brother Majid told me, the body appeared to have been dragged and there were small traces of soil on the body indicating this. I also saw that on both feet just above the ankles there was what looked like pressure marks on the skin. These were blueish, halfway around the leg above the ankles. It looked like something, maybe half the width of a watchstrap, had been used to drag the body."

2.2274 Al'a Hassoun Kahyoush Shazar Al-Grawi (witness 37) provided both written and oral evidence to the Inquiry. He claimed that Firas Al-Grawi (deceased 10) was his cousin and that he had been with him on the day that he died, namely 14 May 2004. Al'a Al-Grawi said that he and Firas Al-Grawi had gone together to a location opposite the Pepsi factory, on the other side of Route 6 (i.e. to the west).³⁰⁰¹ This was undoubtedly in the general area of the Northern Battle and I am sure that Firas Al-Grawi had gone there that day in order to take part in the planned ambush of British troops.

2.2275 Although he could not be precise about where his cousin had been killed, Al'a Al-Grawi described how he had lost sight of Firas Al-Grawi in the vicinity of a U-shaped canal that was filled with water. I am satisfied that this canal was the feature that I have described as Trench 2. For the reasons set out in more detail in Part 2, Chapter 2 of this Report, I am satisfied that Firas Al-Grawi (deceased 10) was actually killed in the vicinity of Trench 2³⁰⁰² and that his dead body was recovered later that evening in the circumstances already described in the earlier part of this Report.³⁰⁰³

²⁹⁹⁹ (MOD007713)

³⁰⁰⁰ Najei Radhi Kahyoush Shazar Al-Grawi (ASI006425-26) [24] – [25]

³⁰⁰¹ Al'a Hassoun Kahyoush Shazar Al-Grawi (ASI006332) [21]

³⁰⁰² See paragraphs 2.67 – 2.78

³⁰⁰³ See paragraph 2.77

2.2276 I have no doubt that Firas Al-Grawi was a willing and active participant in the ambush of British troops that had been carried out by armed insurgents on 14 May 2004. As I have already indicated, I have no doubt that he went to the location opposite the Pepsi factory, on the west side of Route 6, in order to play his part in that ambush, that he was killed by British fire in the resulting fighting and that his body was recovered from where he had fallen.

Deceased 11 – Kazem Ouda Baday Al-Baltani

2.2277 Kazem Ouda Baday Al-Baltani was given the identifier “Deceased 11”. His body was recovered from the Southern Battlefield and was the first body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation “KIA 1” by Captain Rands. His body can be seen in six photographs taken by Captain Rands, bearing the references, ASI000457, ASI000458, ASI000459, ASI000460, ASI000461 and ASI000462.

2.2278 The death certificate produced for Kazem Al-Baltani (deceased 11) lists one cause of death, as follows:³⁰⁰⁴

Several bullets to the abdomen and feet.

2.2279 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Kazem Al-Baltani’s body:

- a. *There was a small abrasion to the right upper forehead with a dark area above and either side which possibly related to bruising. I noted a small area of clotted blood to the left of the midline of the forehead which appears too small for a gunshot wound but could be shrapnel wound.*³⁰⁰⁵
- b. *A stippled abrasion vertically above the outer left eyebrow and patchy red areas on in [sic] the outer left upper eyelid.*³⁰⁰⁶
- c. *Blood on the outer upper rim of the left ear...The deceased’s nostrils contained yellow material which could possibly be stomach content.*³⁰⁰⁷
- d. *I did not see any obvious wounds to the part of the abdomen that was in view in the image.*³⁰⁰⁸
- e. *There was damage to the left side of the trousers near the waist and that there was a damp area which could possibly be a urine stain.*³⁰⁰⁹
- f. *The deceased had clothing which appeared to be bloodstained in the left chest/upper abdomen area and the left upper arm.*³⁰¹⁰

2.2280 With regard to the cause of Kazem Al-Baltani’s (deceased 11) death, Dr Jerreat said this:³⁰¹¹

“I was asked to identify potentially life threatening injuries or injuries which might have been the cause of death...”

³⁰⁰⁴ MOD007717

³⁰⁰⁵ Dr Jerreat (ASI016608) [6.2]

³⁰⁰⁶ Dr Jerreat (ASI016608) [6.3]

³⁰⁰⁷ Dr Jerreat (ASI016608) [6.4]

³⁰⁰⁸ Dr Jerreat (ASI016609) [6.5]

³⁰⁰⁹ Dr Jerreat (ASI016609) [6.6]

³⁰¹⁰ Dr Jerreat (ASI016609) [6.7]

³⁰¹¹ Dr Jerreat (ASI016609) [7.2] – [7.3]

In answer I did not observe any obvious head injury; I saw no signs of blood behind the deceased's head nor did I see any signs of blood issuing from either his nose or mouth. I did note that the heavy blood staining of his clothing in the chest/upper abdomen and left arm area might have indicated an injury in that area. It was impossible on the basis of the imagery available to identify a cause of death."

2.2281 Yousef Ouda Baday Al-Baltani (witness 41), Kazem Al-Baltani's brother, provided both written and oral evidence to the Inquiry about the condition of Kazem Al-Baltani's body. In his written Inquiry statement, Yousef Al-Baltani said this:³⁰¹²

"On removing his clothes I saw the following injuries; I saw an injury to the left side of his chest to the heart area. The heart area was ripped open and I could see his heart. It was a large wound. I saw one (1) injury to the left hand side of his abdomen and this looked as though he had been cut by a knife. The wound was open and about 10-12cm long. This looked like one single cut, going from his front to his back. There was an injury which was exactly the same to the right hand side of his abdomen, slightly higher up his body than the one on the left. I saw no injuries to his face. There were marks around his ankles which made me think that his ankles had been tied by a rope. The marks were black in colour and ran deep into his flesh. To me this told of horrible torture.

I turned over Kazem's body. Because Kazem's hair was black it was difficult to see the blood or any obvious injury to the back of his head but I could feel that his hair was matted with blood. His back was black with bruising and there were also scratches on his back which made me think he had been dragged along the ground. His stomach was swollen. These are all the injuries that I saw."

2.2282 Later in his written Inquiry statement, Yousef Al-Baltani continued, as follows:³⁰¹³

"I have viewed photographs MOD032598 and MOD03299 [sic] and it has been pointed out to me that the photographs show that my brother has a small wound to the centre of his forehead, bruising to the left side of his forehead, marks to the right hand side of his forehead and blood on his left ear. On viewing the photographs and these marks I am positive that these marks were on his head when I washed him in the cemetery in Najaf. Although I said earlier that there were no marks on his face, I do now recall these injuries. At the time of washing the body I think I was focussing on his major wounds.

I have been asked by the Al Sweady investigators whether I think that the small wound to the centre of my brother's forehead was a bullet wound. I think that it was a bullet wound and that it was an entry wound to his forehead."

2.2283 Since Kazem Al-Baltani (deceased 11) was amongst the first group of dead bodies to be photographed by Captain Rands at Camp Abu Naji on the evening of 14 May 2004, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British forces that had been carried out by armed insurgents that day and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed either in the vicinity of the derelict buildings or in or near the Southern

³⁰¹² Yousef Ouda Baday Al-Baltani (ASI007865-66) [45] – [46]

³⁰¹³ Yousef Ouda Baday Al-Baltani (ASI007867) [54] – [55]

Tank Ditch and that his dead body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 12 – Sadeq Jasseb Ghaylan Ne'ma Sahn Al-Majidi

2.2284 Sadeq Jasseb Ghaylan Ne'ma Sahn Al-Majidi was designated “Deceased 12” by the Inquiry. His body was recovered from the Northern Battlefield and was the fourteenth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation “KIA 14” by Captain Rands. His body can be seen in three photographs taken by Captain Rands, bearing the references, ASI000494, ASI000495 and ASI000496.

2.2285 The death certificate produced for Sadeq Al-Majidi (deceased 12) lists one cause of death, as follows:³⁰¹⁴

Entrance and exit bullet wound to neck.

2.2286 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Sadeq Al-Majidi's body:

- a. *Blood can be seen on the chest and clothing covering the upper body.*³⁰¹⁵
- b. *There is blood visible in both nostrils.*³⁰¹⁶
- c. *Possible wounds can be seen to the bridge of nose/inner right eyebrow.*³⁰¹⁷
- d. *A possible entrance wound is visible to the right side chest below the armpit.*³⁰¹⁸
- e. *Possible wounds are apparent to the outer right eyebrow, outer left eye and the outer left lower eyelid.*³⁰¹⁹
- f. *Also a non penetrating injury to the right cheek can be seen.*³⁰²⁰

2.2287 With regard to the cause of Sadeq Al-Majidi's death, Dr Jerreat said this:³⁰²¹

“A probable cause of death could be haemorrhage from head and chest wounds... which is likely to have been caused ante mortem.”

2.2288 Qassim Ghelan Neema Sahn Al-Majidi (witness 182), Sadeq Al-Majidi's uncle, provided both written and oral evidence to the Inquiry about his nephew's injuries. In his written Inquiry statement, Qassim Al-Majidi stated as follows:³⁰²²

“He had been shot in the head, with the exit wound being on his face running from the right eye to the rear centre on the right hand side of his skull. The eyebrow area was not present.

I could also see that his hands had been, and still were, tied behind his back. They were tied together with plastic implements that lock on themselves once pulled and which

³⁰¹⁴ MOD007721

³⁰¹⁵ Dr Jerreat (ASI016665) [58.2]

³⁰¹⁶ Dr Jerreat (ASI016665) [58.3]

³⁰¹⁷ Dr Jerreat (ASI016665) [58.4]

³⁰¹⁸ Dr Jerreat (ASI016665) [58.5]

³⁰¹⁹ Dr Jerreat (ASI016666) [58.6]

³⁰²⁰ Dr Jerreat (ASI016666) [58.7]

³⁰²¹ Dr Jerreat (ASI016666) [59.3]

³⁰²² Qassim Ghelan Neema Sahn Al-Majidi (ASI008811-12) [145] – [148]

cannot then be undone. These were still around his wrists, and we had to cut them off. I borrowed a knife from someone nearby to do this. I then threw them away. His wrists had been injured, as when I lifted his forearms, the hands fell back at the wrist.

He had also been beaten, as on his back there were signs that he had been struck beaten with an implement such as a piece of cable or a stick that had left rainbow coloured stripes all across his back with the skin broken in places. His back, which was itself blue in colour, looked like a map. Having seen the size of the marks where he had been beaten. I would say that he had been hit with a 2 x 16 or 2 x 17 sized piece of cable or as you say, 'wire'.

His genitals also appeared to have been tied, were blue in colour, and swollen, appearing like a balloon as a result of the force with which they had been tied. It looked to me as though his penis had been pulled, as had the testicles, to their fullest extent and then tied making them swell and become black and blue. Whatever had been used to tie his genitals was no longer present on the body, but there were red marks showing where they had been tied."

2.2289 When he gave his oral evidence to the Inquiry, Qassim Al-Majidi changed his evidence with regard to his earlier allegation that his nephew's hands had still been tied behind his back. During his oral evidence, Qassim Al-Majidi admitted that Sadeq Al-Majidi's hands had not still been tied. However, he claimed that he could see marks that showed that they had once been tied. Qassim Al-Majidi was unable to provide any adequate explanation for having originally alleged that he had borrowed a knife to cut the ties from Sadeq's wrists.³⁰²³ For the reasons I have already given,³⁰²⁴ I have no doubt that the original allegation had been a deliberate lie, intended to support a false claim that Sadeq Al-Majidi (deceased 12) had been one of the Iraqi men alleged to have been captured alive by the British military on 14 May 2004 and then unlawfully killed at Camp Abu Naji that night, an allegation that was entirely false.

2.2290 Since the body of Sadeq Al-Majidi (deceased 12) was amongst the second main group of dead bodies to arrive at Camp Abu Naji on 14 May 2004 and be photographed by Captain Rands that evening, it is clear that he was killed during the Northern Battle. I have no doubt that he was an active and willing participant in the ambush of British forces that had been carried out by armed insurgents on 14 May 2004 and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed in or in the near vicinity of Trench 1 and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 13 – Muhammad Maleh Ghleiwi Atiya Obeid Al-Malki

2.2291 Muhammad Maleh Ghleiwi Atiya Obeid Al-Malki was designated "Deceased 13" by the Inquiry. His body was not recovered from the battlefield by British soldiers and thus does not appear in any of the photographs that were taken by Captain Rands at Camp Abu Naji on the evening of 14 May 2004. He is one of the eight deceased Iraqi men who undoubtedly died in the course of the Battle of Danny Boy, but whose dead bodies were not amongst those taken back to Camp Abu Naji that night. In Part 2, Chapter 2 of this Report, I have already set out the details of what is known about each of these 8 individuals. The details relating to Muhammad

³⁰²³ Qassim Ghelan Neema Sahn Al-Majidi [34/46-47]

³⁰²⁴ See paragraph 2.1680

Maleh Ghleiwi Atiya Obeid A-Malki (deceased 13) are set out in paragraphs 2.68 to 2.80 of that Chapter.

2.2292 The death certificate produced for Muhammad Al-Malki (deceased 13) lists one cause of death, as follows:³⁰²⁵

Entrance bullet wound from the right side of the head, exit wound from the left side of the head.

2.2293 Since Muhammad Al-Malki's body does not appear in any of the photographs taken by Captain Rands at Camp Abu Naji on 14 May 2004, Dr Jerreat was not asked to comment on his injuries or on the cause of his death.

2.2294 Salim Malih Olwei Al-Maliki (witness 45), Muhammad Al-Malki's brother, provided the following written evidence about the injuries that he claimed to have seen on his brother's body when he found him on 14/15 May 2004:

*"He had a single bullet wound to the front of his head and a larger exit hole at the rear of his head. I also saw a bullet wound on his right shoulder, and once again a larger exit wound at the rear of his shoulder. There were no signs of burned flesh or the clothing being burned..."*³⁰²⁶

2.2295 He added the following details of what claimed to have seen when Muhammad Al-Malki's body was washed on 15 May 2004:

*"There were no signs of Mohammed's body being assaulted or kicked. In my opinion the injuries were caused by bullets and not exploding shells or shrapnel."*³⁰²⁷

2.2296 Muhammad Al-Malki's body was found by his brother, Salim Malih Olewi Al Maliki (witness 45).³⁰²⁸ Salim Al-Maliki marked the location at which he found his brother's body on the map, ASI007474. This location was identified as being due south of the Danny Boy vehicle checkpoint. This particular location was not in the general area of either the Southern or the Northern Battle, but closer to the latter than the former.

2.2297 I have no doubt that Muhammad Al-Malki (deceased 13) had been an active and willing participant in the armed ambush of British troops that was carried out by armed insurgents that day and that he had been killed in the resulting fighting. For the reasons set out in more detail in Part 2, Chapter 2 of this Report, I am satisfied that Muhammad Al-Malki (deceased 13) was actually killed during the ambush of the Warrior AIFVs and the Land Rovers, which took place in the vicinity of the Danny Boy VCP, as they were driving north from the Southern Battlefield, on their way back to Camp Abu Naji.³⁰²⁹ Later that evening, in the circumstances already described in the earlier part of this Report,³⁰³⁰ Muhammad Al-Malki's body was recovered from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

³⁰²⁵ MOD007725

³⁰²⁶ Salim Malih Olwei Al-Maliki (ASI007828) [25]

³⁰²⁷ Salim Malih Olwei Al-Maliki (ASI007830) [39]

³⁰²⁸ Salim Malih Olwei Al Maliki (ASI007828) [24]

³⁰²⁹ See paragraphs 2.52 – 2.62

³⁰³⁰ See paragraphs 2.52 – 2.62

Deceased 14 – Tareq Muhammad Husain Al-Muhammadawi Al-Khalifa

2.2298 Tareq Muhammad Husain Al-Muhammadawi Al-Khalifa was designated “Deceased 14” by the Inquiry. His body was recovered from the Southern Battlefield and was the seventh body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation “KIA 7” by Captain Rands. His body can be seen in two photographs taken by Captain Rands that evening, bearing the references, ASI000476 and ASI000477.

2.2299 The death certificate that was produced for Tareq Al-Khalifa (deceased 14) lists three causes of death, as follows:³⁰³¹

- a. *Bullet to the back of the head.*
- b. *Disfigurement of the right shoulder with cuts.*
- c. *Bullets to the chest and abdomen from the front.*

2.2300 After considering the material which had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Tareq Al-Khalifa’s body:

- a. *There is distortion to the right arm.*³⁰³²
- b. *There is a potential missile entrance wound visible to the left upper eyelid but in my opinion this is unlikely to be the cause, as there is no associated swelling, bruising or distortion of the eye. There is disruption of the mid left eyebrow.*³⁰³³
- c. *Blood is visible on the face and clothing including the trousers.*³⁰³⁴
- d. *A possible wound can be seen on the right flank.*³⁰³⁵

2.2301 With regard to the cause of Tareq Al-Khalifa’s death, Dr Jerreat said this:

*“It is not possible to exclude that the deceased died from head injuries from the gunshot wound to the left eyebrow area...This is likely to have been caused ante mortem.”*³⁰³⁶

2.2302 Bareq Mohammed Hussein Al-Khalifa (witness 245), Tareq Al-Khalifa’s brother, provided both written and oral evidence to the Inquiry about his nephew’s injuries. In his written Inquiry statement, Bareq Al-Khalifa described what he claimed to have seen, when Tareq Al-Khalifa’s body was washed, as follows:³⁰³⁷

“I witnessed that Tareq Muhammad Husain Al-Khalifa had been hit on his side. He had a big hole in his body and I could see his stomach. This was the biggest wound and I think it may have been the lethal one...”

One of Tareq Muhammad Husain Al-Khalifa’s front teeth was broken and his mouth was slight [sic] open so I was able to notice is [sic]. There was dirt inside his mouth...

I also believe that Tareq Muhammad Husain Al-Khalifa’s leg was broken and there were bruising marks as though he had been beaten...”

³⁰³¹ MOD007729

³⁰³² Dr Jerreat (ASI018541) [12.3]

³⁰³³ Dr Jerreat (ASI018541) [12.4]

³⁰³⁴ Dr Jerreat (ASI018541) [12.5]

³⁰³⁵ Dr Jerreat (ASI018541) [12.6]

³⁰³⁶ Dr Jerreat (ASI018542) [13.2]

³⁰³⁷ Bareq Mohammed Hussein Al-Khalifa (PIL000877-78) [91] – [93]

2.2303 In addition, Bareq Al-Khalifa described having seen a cut to his brother's right arm that was so deep that he could see the bone.³⁰³⁸

2.2304 Since Tareq Al-Khalifa (deceased 14) was amongst the first group of dead bodies to be photographed by Captain Rands at Camp Abu Naji on the evening of 14 May 2004, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British troops that had been carried out by armed insurgents that day and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 15 – Haydar Jamal Mshatat Kazem Al-Malki

2.2305 Haydar Jamal Mshatat Kazem Al-Malki was designated "Deceased 15" by the Inquiry. Haydar Al-Malki's body was recovered from the Southern Battlefield and was the third body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "KIA 3" by Captain Rands. His body can be seen in three photographs taken by Captain Rands, bearing the references, ASI000465, ASI000466 and ASI000467.

2.2306 The death certificate produced for Haydar Al-Malki (deceased 15) lists one cause of death, as follows:³⁰³⁹

Several bullets to the body and head.

2.2307 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Haydar Al-Malki's body:

1. *The deceased's right eye was missing with a laceration on the outer upper eyelid and an abrasion on the outside of the right eyebrow which appeared to extend to the right temple, nose and right cheek. Also, that there was a brownish discolouration to that part of the face that was in view.*³⁰⁴⁰
2. *I also saw what appeared to be a possible curved laceration to the inner aspect of the right eye.*³⁰⁴¹
3. *There is an injury to the right shoulder with an abrasion of the upper arm. I noted an injury which may be a bullet injury to the right upper arm and a distorted shoulder girdle.*³⁰⁴²
4. *I saw abrasions to the left upper arm and dark red discolouration of his left forearm; this was possibly a heat injury.*³⁰⁴³
5. *There was blood in both nostrils and on and behind left ear and that a central upper tooth was missing.*³⁰⁴⁴

³⁰³⁸ Bareq Mohammed Hussein Al-Khalifa (PIL000877) [90]

³⁰³⁹ MOD007733

³⁰⁴⁰ Dr Jerreat (ASI016616) [14.2]

³⁰⁴¹ Dr Jerreat (ASI016616) [14.3]

³⁰⁴² Dr Jerreat (ASI016616) [14.4]

³⁰⁴³ Dr Jerreat (ASI016617) [14.5]

³⁰⁴⁴ Dr Jerreat (ASI016617) [14.6]

6. *The deceased's clothing showed sand/dust type material with blood on his upper arms and mid abdomen, pelvis and both knees and beyond.*³⁰⁴⁵
7. *I noted in The Third Video (ASI012241) a pair of wounds to the right side of the abdomen which could potentially be an in/out shrapnel injury and that the video DCM5 (ASI005972) shows arm injuries also potentially to the right upper arm.*³⁰⁴⁶

2.2308 In his written report to the Inquiry, Dr Jerreat went on to provide a little more detail about the injury to Haydar Al-Malki's right eye, as follows:³⁰⁴⁷

"I believe that the injuries I have noted are likely to have been received ante mortem. However, it is not possible to be definite regarding ante or post mortem with regard to the absence of the right eye, but injuries, i.e. lacerations and abrasions, surrounding the socket are ante mortem and would suggest a bullet/shrapnel type entrance injury.

A bayonet would create a much larger non-circular wound and to remove the eye would require eye muscles and optic nerves to be severed behind the eye."

2.2309 With regard to the cause of Haydar Al-Malki's death, Dr Jerreat said this:

*"The deceased appeared to have serious injuries to his right shoulder, his chest and his right eye. I would suggest the cause of death was probably due to haemorrhage from multiple injuries."*³⁰⁴⁸

2.2310 Ahmed Mshatat Kazem Al-Malki (witness 49), Haydar Al-Malki's brother, provided both written and oral evidence to the Inquiry about the injuries that he claimed to have seen on his brother's body. In his written Inquiry statement, Ahmed Al-Malki said this:³⁰⁴⁹

"When the body was washed I saw the following; Haidar's feet were tied together with rope although I cannot now remember what this rope looked like.

Haidar had many holes all over his upper body; too many to count. I do not know what caused these holes, whether they were bullet holes or holes caused by a sharp object. Haidar's body was bruised all over.

Haidar's arm had been broken at the elbow joint. It was so severely broken that the lower part of his arm was hanging limp.

I saw again that Haidar's eye was missing. There was no injury to the back of his head."

2.2311 When he gave oral evidence, Ahmed Al-Malki told me that he did not know whether his brother's eye had been lost as a consequence of a gunshot or whether it had been "uprooted".³⁰⁵⁰ However,³⁰⁵¹ I have no doubt that his allegation that Haydar Al-Malki's legs were still tied together with rope was a deliberate lie, intended to lend support to a false claim that Haydar Al-Malki was one of the Iraqi men alleged to have been captured alive by the British military on 14 May 2004 and then unlawfully killed at Camp Abu Naji that night, an allegation that was entirely false.

³⁰⁴⁵ Dr Jerreat (ASI016617) [14.7]

³⁰⁴⁶ Dr Jerreat (ASI016617) [14.8]

³⁰⁴⁷ Dr Jerreat (ASI016618) [15.3] – [15.4]

³⁰⁴⁸ Dr Jerreat (ASI016617) [15.2]

³⁰⁴⁹ Ahmed Mshatat Kazem Al-Malki (ASI006322) [30] – [33]

³⁰⁵⁰ Ahmed Mshatat Kazem Al-Malki [33/13]

³⁰⁵¹ Xref to topic 28 para 83

2.2312 Since Haydar Al-Malki (deceased 15) was amongst the first group of dead bodies to be photographed at Camp Abu Naji on the evening of 14 May 2004, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British troops that had been carried out by armed insurgents that day and that he had been killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 16 – Adnan Karam Yaseen Laheet Al-Hujeimi Al-Mozani

2.2313 Adnan Karam Yaseen Laheet Al-Hujeimi Al-Mozani was designated “Deceased 16” by the Inquiry. His body was recovered from the Southern Battlefield and was the fourth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation “KIA 4” by Captain Rands. His body can be seen in two photographs taken by Captain Rands, bearing the references ASI000468 and ASI000469.

2.2314 The death certificate produced for Adnan Al-Mozani (deceased 16) lists one cause of death, as follows:³⁰⁵²

Several bullets to the neck and chest.

2.2315 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Adnan Al-Mozani’s body:

- a. *Most of the clothing that is visible is covered in blood but I am able to see 3 possible bullet entry sites in the clothing. There are 2 in the left upper arm and a further 1 above. Additionally there are 2 possible bullet wounds on the skin of the left upper arm.*³⁰⁵³
- b. *The left upper arm, elbow and forearm appears distorted.*³⁰⁵⁴
- c. *Blood is shown on the face with a bruised right upper eyelid and inner left upper eyelid indicating a possible head injury.*³⁰⁵⁵
- d. *There are grey marks on the white top of the deceased which are possibly indicating bullet entrance points.*³⁰⁵⁶
- e. *Grazing of the right knee is visible. There is also blood in nostrils and face with possible grazing to the right side of the face...Blood was visible to the lower right hand side of the neck.*³⁰⁵⁷

2.2316 With regard to the cause of Adnan Al-Mozani’s death, Dr Jerreat said this:

*“A probable cause of death could be haemorrhage due to multiple injuries...which is likely in my opinion to have been caused ante mortem.”*³⁰⁵⁸

³⁰⁵² MOD007736

³⁰⁵³ Dr Jerreat (ASI016621) [18.2]

³⁰⁵⁴ Dr Jerreat (ASI016621) [18.3]

³⁰⁵⁵ Dr Jerreat (ASI016621) [18.4]

³⁰⁵⁶ Dr Jerreat (ASI016621) [18.5]

³⁰⁵⁷ Dr Jerreat (ASI016622) [18.6]

³⁰⁵⁸ Dr Jerreat (ASI016622) [19.3]

2.2317 Karam Yaseen Laheet Sneshree Al-Mozani (witness 51), Adnan Al-Mozani's father, provided the Inquiry with both his written and oral evidence about the condition of his son's body. In his written Inquiry statement, Karam Al-Mozani described the injuries that he claimed to have seen, when he washed his son's body, in the following terms:³⁰⁵⁹

"Once the washing of the body began I could see the injuries more clearly as I was very close, and I noted the following:

There were two small holes in the neck, at the front and either side of the windpipe. These were black burnt holes, that did not have any bleeding, and I don't [sic] how they were caused. They did not look like bullet wounds to me. They looked like they had probably been burned. There was one very small wound at the back of the neck, which may have been some form of exit wound.

The left arm was broken at the elbow. The joint was fractured and this caused distortion of the whole arm. There was a thin wound in the same area of the fracture, and small holes on the elbow; these wounds were red and not burnt like the others.

There was also a small hole on the left foot, which was the same size as the ones on the neck, and burnt in the same way. The neck and foot wounds were the same type and black in colour, while the elbow wound was a different type and red."

2.2318 Since Adnan Al-Mozani (deceased 16) was amongst the first group of dead bodies to be photographed by Captain Rands at Camp Abu Naji on the evening of 14 May 2004, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British troops that had been carried out by armed insurgents that day and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 17 – Hamza Malek Moalla Khaleefa Ja'far Al-Isma'ili

2.2319 Hamza Malek Moalla Khaleefa Ja'far Al-Isma'ili was designated "Deceased 17" by the Inquiry. His body was recovered from the Northern Battlefield and was the nineteenth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "KIA 19" by Captain Rands. His body can be seen in four photographs taken by Captain Rands, bearing the references ASI000507, ASI000508, ASI000509 and ASI000510.

2.2320 The death certificate which was produced for Hamza Al-Isma'ili (deceased 19) lists one cause of death, as follows:³⁰⁶⁰

Entrance wound in the head and an exit wound.

2.2321 After considering the material which had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Hamza Al-Isma'ili's body:

³⁰⁵⁹ Karam Yaseen Laheet Sneshree Al-Mozani (ASI007696-97) [44]

³⁰⁶⁰ MOD007740

- a. *Blood can be seen on the clothing of the: right side trunk arm, upper left side and left arm. It is also visible on the right side of the chest and abdomen.*³⁰⁶¹
- b. *There is a possible blood pattern on the left thigh.*³⁰⁶²
- c. *The deceased's genitals are partially visible and there is no obvious blood association.*³⁰⁶³
- d. *A large amount of facial blood can be seen. With brain visible through the forehead and separation of midline scalp and skull.*³⁰⁶⁴
- e. *There is mesh type pattern over right side of the face.*³⁰⁶⁵
- f. *No obvious deformity in facial bone symmetry can be seen.*³⁰⁶⁶
- g. *There may be distortion of the arms at shoulder level but there are insufficient views to confirm this.*³⁰⁶⁷
- h. *In view ASI000511 (body on left) there is blood on the outer upper left arm and possibly brain/soft tissue on the left hand side of the head.*³⁰⁶⁸

2.2322 With regard to the cause of Hamza Al-Isma'ili's death, Dr Jerreat said this:³⁰⁶⁹

"A probable cause of death could be head injuries. There is the appearance of an exit type wound to the front upper area of the head which would correspond to an entry wound to the back of the head...which is likely to have been caused ante mortem."

2.2323 In an earlier part of this Report, I set out the evidence of Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774) about the circumstances of Hamza Al-Isma'ili's death on 14 May 2004.³⁰⁷⁰ Zahra Resan Muhsin (witness 52), Hamza Al-Isma'ili's mother, provided both her written and oral evidence to the Inquiry about the condition of her son's body. In her written Inquiry statement, she said this:³⁰⁷¹

"When we looked at Hamza's body I saw a number of injuries. I noticed that one of his shoulders, I don't recall which one, was displaced and this made the arm longer than the other. He also had red marks on his chest and body. I don't know if these were marks made by a knife or the knife that is put on the front of a gun. There were maybe three or four of these and they were blue and red in colour. They were not open wounds. The skin was not broken. It looked like he had been hit by the bottom of a gun. He was tortured I think."

"There was also a small hole over his left eyebrow and a big hole at the back of his head. This injury at the back was a big open wound. The left eye was also a little sunken. I could not see it properly. The right eye was normal. When Hamza was first brought home I mostly noticed the large injury to his head. The other injuries I saw in more detail when the body was washed before burial."

³⁰⁶¹ Dr Jerreat (ASI016688) [78.2]

³⁰⁶² Dr Jerreat (ASI016688) [78.3]

³⁰⁶³ Dr Jerreat (ASI016688) [78.4]

³⁰⁶⁴ Dr Jerreat (ASI016688) [78.5]

³⁰⁶⁵ Dr Jerreat (ASI016688) [78.6]

³⁰⁶⁶ Dr Jerreat (ASI016688) [78.7]

³⁰⁶⁷ Dr Jerreat (ASI016688) [78.8]

³⁰⁶⁸ Dr Jerreat (ASI016688) [78.9]

³⁰⁶⁹ Dr Jerreat (ASI016689) [79.3]

³⁰⁷⁰ See paragraphs 2.1372 – 2.1377

³⁰⁷¹ Zahra Resan Muhsin (ASI007875-76) [35] – [36]

2.2324 Since the body of Hamza Al-Isma'ili (deceased 17) was one of the last of the dead bodies to arrive at Camp Abu Naji on 14 May 2004 and be photographed by Captain Rands that evening, it is clear that he was killed during the Northern Battle.

2.2325 I have no doubt that Hamza Al-Isma'ili was an active and willing participant in the ambush of British forces that had been carried out by armed insurgents on 14 May 2004, that he was killed by British fire in the resulting fighting and that his body was collected from where he had fallen. It appears that Hamza Al-Isma'ili was a cousin of Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774) and that they may have been together or near each other on the battlefield 14 May 2004, at some stage shortly before Hamzah Al-Isma'ili was actually killed.³⁰⁷² If that is so, I have no doubt that they were there together in order to take part in the planned ambush of British troops, which is what they then proceeded to do. In the event, I have no doubt that Hamzah Al-Isma'ili killed in Trench 1 and that it is very likely that he was one of the armed insurgents who were killed during the westwards "sweep" of Trench 1 that WO2 Falconer and Lance Corporal Wood carried out that afternoon.³⁰⁷³ As I have already indicated, I am sure that WO2 Falconer shot both Ibrahim Al-Ismaeeli (detainee 774) and Mohammed Nasser Al-Doughaan (deceased 28) during "Contact 3" in Trench 1, wounding the former and killing the latter.³⁰⁷⁴ Given that Hamzah Al-Isma'ili was not wearing "black loose fitting robes" (WO2 Falconer's description of the clothing of the two insurgents killed in "Contact 1"³⁰⁷⁵), it seems to me very likely that Hamzah Al-Isma'ili was one of the two insurgents who were killed in Trench 1 during "Contact 2".³⁰⁷⁶ The dead body of Hamzah Al-Isma'ili (deceased 17) was then collected from where he had fallen, which was probably just over 100 metres from the first insurgent position in Trench 1 to have been assaulted and captured by the British soldiers during the battle that day.

Deceased 18 – Adel Abdelzahra Atti Al-Hujeimi Al-Mozani

2.2326 Adel Abdelzahra Atti Al-Hujeimi Al-Mozani was designated "Deceased 18" by the Inquiry. His body was recovered from the Southern Battlefield and was the eighth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "KIA 8" by Captain Rands. His body can be seen in three photographs taken by Captain Rands, bearing the references, ASI000478, ASI000479 and ASI000480.

2.2327 The death certificate produced for Adel Al-Mozani (deceased 18) lists one cause of death, as follows:³⁰⁷⁷

Several bullets to the head and body.

2.2328 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Adel Al-Mozani (deceased 18) body:

- a. *"There is blood staining of the clothing, with the greatest concentration to the legs and then the shoulders and arms. There was also torn cloth around both knees."*³⁰⁷⁸

³⁰⁷² Insert xrefs to the "sweep" of Trench 1 by WO2 Falconer and LCpl Wood Contact 3 and Ibrahim Al-Ismaeeli's account of his reasons for being on the battlefield.

³⁰⁷³ See paragraphs 2.938 – 2.950

³⁰⁷⁴ See paragraph 2.1405

³⁰⁷⁵ WO2 Falconer (ASI020204-05) [84]

³⁰⁷⁶ See paragraphs 2.938 – 2.950

³⁰⁷⁷ MOD007743

³⁰⁷⁸ Dr Jerreat (ASI016639) [34.2]

- b. *The face was blood stained with bruising to inner upper right eyelid and eyebrow.*³⁰⁷⁹
- c. *Blood is visible in both nostrils.*³⁰⁸⁰
- d. *There is patchy reddening on the deceased's lips with possible grazes/blood below his lower lip and to the outside of the right side of the mouth. Also a possible missile entry wound on right cheek.*³⁰⁸¹
- e. *There appears to be some grazing below both eyes which can possibly be seen.*³⁰⁸²
- f. *Also there are possible wounds to the right wrist.*³⁰⁸³

2.2329 With regard to the cause of Adel Al-Mozani's death, Dr Jerreat said this:³⁰⁸⁴

"These injuries (haemorrhage due to head and limb) are a probable cause of death... which in my opinion are likely to have been caused ante mortem."

2.2330 Riyadh Abdulzahra Ati Al-Mozani (witness 197), Adel Al-Mozani's brother, provided both written and oral evidence to the Inquiry about the condition of his brother's body. In his written Inquiry statement, Riyadh Al-Mozani described the injuries that he claimed to have seen on his brother's body, in the following terms:³⁰⁸⁵

"I saw injuries on the face of Adel Abdulzahra Ati Al-Mozani. It was clear that he had been shot in one cheek but I cannot recall which side. There were more than two or three gunshots in my brother's cheek. The bullets went out of the back of the head. Although I did not see the wound in the back of the head, my father told me about it later. He said he was sure that Adel Abdelzahra Ati Al-Mozani had been shot in the face because when a person is shot it is usually small where the bullet goes in and large where it comes out...I do not recall seeing blood on the face but I do remember seeing blood inside the coffin around the back of the head..."

There was another injury on Adel Abdelzahra Ati Al-Mozani's arm but I do not recall on which side it was. It was caused by fire shots. There was more than one but I cannot recall how many. The injury was to the forearm, not including the hand. The sleeve of his dress was torn through and I could see the wound. There was blood on the remaining sleeve around the wound."

2.2331 Since Adel Al-Mozani (deceased 18) was amongst the first group of dead bodies to be photographed by Captain Rands at Camp Abu Naji on the evening of 14 May 2004, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British troops that had been carried out by armed insurgents that day and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

³⁰⁷⁹ Dr Jerreat (ASI016639) [34.3]

³⁰⁸⁰ Dr Jerreat (ASI016639) [34.4]

³⁰⁸¹ Dr Jerreat (ASI016639) [34.5]

³⁰⁸² Dr Jerreat (ASI016639) [34.6]

³⁰⁸³ Dr Jerreat (ASI016639) [34.7]

³⁰⁸⁴ Dr Jerreat (ASI016640) [35.3]

³⁰⁸⁵ Riyadh Abdulzahra Ati Al-Mozani (PIL000531-32) [34] – [35]

Deceased 19 – Atheer Abdelameer Ja’far Sarout Al-Shweili

2.2332 Atheer Abdelameer Ja’far Sarout Al-Shweili was designated “Deceased 19” by the Inquiry. His body was not recovered from the battlefield by British soldiers and thus does not appear in any of the photographs that were taken by Captain Rands at Camp Abu Naji on the evening of 14 May 2004. He is one of the eight deceased Iraqi men who undoubtedly died in the course of the Battle of Danny Boy, but whose dead bodies were not amongst those taken back to Camp Abu Naji that night. In Part 2, Chapter 2 of this Report, I have already set out the details of what is known about each of these 8 individuals. The details relating to Atheer Abdelameer Ja’far Sarout Al-Shweili (deceased 19) are set out in paragraphs 2.108 to 2.116 of that Chapter.

2.2333 The death certificate produced for Atheer Al-Shweili (deceased 19) lists one cause of death, as follows:³⁰⁸⁶

Entrance bullet wound to the right side of the back with an exit wound in the chest area.

2.2334 Since Atheer Al-Shweili’s body does not appear in any of the photographs taken by Captain Rands at Camp Abu Naji, Dr Jerreat was not asked to comment on his injuries or on the cause of his death.

2.2335 Abdel Amir Ja’afer Sorwat Al Asma’a’ili (witness 57), Atheer Al-Shweili’s father, provided written evidence to the Inquiry about the injuries that he claimed to have seen on his son’s body when he took him home, as follows:

“Although the body was covered in clothing and a blanket the following injuries were still apparent.”³⁰⁸⁷

Grazes and cuts around the forehead and sides of his face, possibly caused by him hitting his head on the ground with some force and falling onto small stones and grass.

One of his legs was twisted round; it was at an unusual angle. I cannot remember which leg it was.

Although I did not see them I have been told that he had three bullet wounds in his back which caused a massive exit wound to his chest which was torn completely open”.

2.2336 Assad Mozan Khalait Al-Kaabi (witness 78) and Khuder Karim Ashoor Al-Sweady (witness 1) both told me that they had been nearby, when Atheer Al-Shweili’s body was found during the evening/night of 14/15 May 2004. Khuder Al-Sweady was very specific about the location where Atheer Al-Shweili’s body had been found and he marked it as “Point C” on the map, PIL000655. This particular location is undoubtedly within the area of the Northern Battlefield. Khuder Al-Sweady also described how the body had been found within a dry irrigation channel.³⁰⁸⁸ However, for his part, Assad Al-Kaabi said Atheer Al-Shweili’s body had been found in a field.³⁰⁸⁹ The position of Atheer Al-Shweili’s body, as indicated by Khuder Al-Sweady on PIL000655, suggests that it was found at a point just north of Trench 2 and I accept that it is likely that this was the place where Atheer Al-Shweili’s body was actually located.

³⁰⁸⁶ MOD007747

³⁰⁸⁷ Abdel Amir Ja’afer Sorwat Al Asma’a’ili (ASI007888) [36]

³⁰⁸⁸ Khudhur Karim Ashoor Al-Sweady (PIL000630) [40]

³⁰⁸⁹ Assad Mozan Khalait Al-Kaabi (ASI000924) [92]

2.2337 I have no doubt that Atheer Al-Shweili was an active and willing participant in the ambush of British troops that had been carried out by armed insurgents on 14 May 2004 and that he was killed by British fire in the resulting fighting that took place during the Northern Battle. In my view, it is likely that he was actually killed in or near Trench 2, in the position indicated by Khuder Al-Sweady on PIL000655, and that his body was recovered that night from where he had fallen in the battle.

Deceased 20 – Abbas Mahood Jheijeh Dawood Al-Mozani

2.2338 Abbas Mahood Jheijeh Dawood Al-Mozani was designated “Deceased 20” by the Inquiry. His body was recovered from the Southern Battlefield and was the sixth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation “KIA 6” by Captain Rands. His body can be seen in three photographs taken by Captain Rands, bearing the references, ASI000473, ASI000474 and ASI000475.

2.2339 The death certificate produced for Abbas Mahood Al-Mozani (deceased 20) lists four causes of death, as follows.³⁰⁹⁰

- a. *Gunshot to the face.*
- b. *Removal of the eye.*
- c. *Breakage to the jaw.*
- d. *Bullet to the abdomen.*

2.2340 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Abbas Mahood Al-Mozani’s body:

- a. *Both eyes appear to be bruised; the right appears to be swollen to a greater degree than the left.*³⁰⁹¹
- b. *Lacerations are apparent to both ears.*³⁰⁹²
- c. *There is blood present on the ground at the left hand side of the head.*³⁰⁹³
- d. *Blood is visible in the nostrils and on other areas of the face. There is a possible laceration to the corner of the right side of the mouth.*³⁰⁹⁴
- e. *It is possible to see grazing on the right cheek and around the right hand side of the mouth as there is possibly blood in those areas.*³⁰⁹⁵
- f. *The clothing on the upper chest area and the left thigh appears to be stained with blood.*³⁰⁹⁶
- g. *Blood or possible grazes are visible on the left hand to the index and middle finger tips.*³⁰⁹⁷
- h. *Dust or sand type material can be seen in the hair to the right hand side and to the outer right eye area.*³⁰⁹⁸

³⁰⁹⁰ MOD007750

³⁰⁹¹ Dr Jerreat (ASI016630) [26.2]

³⁰⁹² Dr Jerreat (ASI016630) [26.3]

³⁰⁹³ Dr Jerreat (ASI016630) [26.4]

³⁰⁹⁴ Dr Jerreat (ASI016630) [26.5]

³⁰⁹⁵ Dr Jerreat (ASI016630) [26.6]

³⁰⁹⁶ Dr Jerreat (ASI016630) [26.7]

³⁰⁹⁷ Dr Jerreat (ASI016631) [26.8]

³⁰⁹⁸ Dr Jerreat (ASI016631) [26.9]

- i. *No obvious view of the right arm is available. There are possible injuries or damage to the right upper arm because blood is visible on the clothing.*³⁰⁹⁹

2.2341 With regard to the cause of Abbas Mahood Al-Mozani's death, Dr Jerreat said this:³¹⁰⁰

"A probable cause of death could be head injury...which is compatible in my opinion with having been caused ante mortem."

2.2342 Mahud Jihaijeh Dawood Al-Mozani (witness 60), Abbas Mahood Al-Mozani's father, provided both written and oral evidence to the Inquiry. In his first written Inquiry statement, Mahud Al-Mozani described what he claimed to have seen when he washed his son's body, in the following terms:³¹⁰¹

"When I washed the body of my son, which took place on or around 20th May 2004, I saw that he had sustained the following injuries: his eyes had been taken out, as had his teeth; his jaw had been broken; and he had been shot in the head – he had a narrow bullet entry wound on his forehead, above the eyebrow, but I can't now remember on which side, there was a larger exit wound at the back of his head. He had been shot in the left arm, the bullet having passed through and into his chest. There were also many injuries to his abdomen, and his nose had been broken."

2.2343 In his first written Inquiry statement, Mahud Al-Mozani also described how his son's wrists and ankles had been tied with *"white material"*.³¹⁰² As I have already explained³¹⁰³, none of the dead bodies had had their hands or ankles tied at any stage. This particular allegation was a deliberate lie, intended to support a false claim that Abbas Mahood Al-Mozani was one of the Iraqi men alleged to have been captured alive by the British military on 14 May 2004 and then unlawfully killed at Camp Abu Naji that night, an allegation that was entirely false.

2.2344 Since Abbas Mahood Al-Mozani (deceased 20) was amongst the first group of dead bodies to be photographed by Captain Rands at Camp Abu Naji on the evening of 14 May 2004, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British troops that had been carried out by armed insurgents that day and that he had been killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 21 – Majed Jubair Suweid Edayyem Al-Shweili

2.2345 Majed Jubair Suweid Edayyem Al-Shweili was designated *"Deceased 21"* by the Inquiry. His body was not recovered from the battlefield by British soldiers and thus does not appear in the photographs that were taken by Captain Rands at Camp Abu Naji on the evening of 14 May 2004. He is one of the eight deceased Iraqi men who undoubtedly died in the course of the Battle of Danny Boy, but whose dead bodies were not amongst those taken back to Camp Abu Naji that night. In Part 2, Chapter 2 of this Report, I have already set out the details

³⁰⁹⁹ Dr Jerreat (ASI016631) [26.10]

³¹⁰⁰ Dr Jerreat (ASI016631) [27.3]

³¹⁰¹ Mahud Jihaijeh Dawood Al-Mozani (ASI007732) [89]

³¹⁰² Mahud Jihaijeh Dawood Al-Mozani (ASI007731) [79]

³¹⁰³ See paragraph 2.2252

of what is known about each of these 8 individuals. The details relating to Majid Jubair Suweid Edayyem Al-Shweili (deceased 21) are set out in paragraphs 2.81 to 2.85 of that Chapter.

2.2346 The death certificate for Majed Al-Shweili (deceased 21) lists one cause of death, as follows:³¹⁰⁴

“Several entrance bullet wounds with deterioration of the abdomen and thigh.”

2.2347 Since Majed Al-Shweili’s body does not appear in any of the photographs taken by Captain Rands at Camp Abu Naji on 14 May 2004, Dr Jerreat was not asked to comment on his injuries or on the cause of his death.

2.2348 Mohammed Jubayr Swayid Al-Shuwaili (witness 64), the brother of Majid Al-Shweili (deceased 21), provided written evidence about the injuries that he claimed to have seen on his brother’s body, when he identified his body at the hospital, as follows:³¹⁰⁵

“I saw that he had been shot in the back and the bullet had exited through his abdomen, his intestines were hanging out. These were the only injuries on Majid’s body.”

2.2349 Majed Al-Shweili’s body was also found by Salim Malih Olewi Al Maliki (witness 45).³¹⁰⁶ Salim Al-Maliki marked the location at which he found Majid Al-Shweili’s body on the map, ASI007474. This location was identified as being due south of the Danny Boy VCP. This particular location was not in the general area of either the Southern or the Northern Battle, but closer to the latter than the former.

2.2350 I have no doubt that Majed Al-Shweili (deceased 21) was an active and willing participant in the ambush of British troops that was carried out by armed insurgents on 14 May 2004 and that he had been killed by British fire in the resulting fighting. In my view, it is likely that he was actually killed during the ambush of the Warrior AIFVs and the Land Rovers, which took place in the vicinity of the Danny Boy VCP, as they were driving north from the Southern Battlefield, on their way back to Camp Abu Naji.³¹⁰⁷ Majed Al-Shweili’s body was recovered from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 22 – Husain Jasseb Ghazi Al-Muhammadawi

2.2351 Husain Jasseb Ghazi Al-Muhammadawi was designated “Deceased 22” by the Inquiry. His body was recovered from the Southern Battlefield and was the second body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation “KIA 2” by Captain Rands. His body can be seen in two photographs taken by Captain Rands, bearing the references, ASI000463 and ASI000464.

2.2352 The death certificate produced for Husain Al-Muhammadawi (deceased 22) lists one cause of death, as follows:³¹⁰⁸

“Several bullets to the head and foot.”

2.2353 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Husain Al-Muhammadawi’s body:

³¹⁰⁴ MOD007754

³¹⁰⁵ Mohammed Jubayr Swayid Al-Shuwaili (ASI007752-53) [33]

³¹⁰⁶ Salim Malih Olewi Al Maliki (ASI007828) [24]

³¹⁰⁷ See paragraph 2.1573 onwards

³¹⁰⁸ MOD007758

- a. *The deceased was wearing heavily blood stained clothing with multiple tear areas to the lower limbs, those on the right being greater than those on the left.*³¹⁰⁹
- b. *There was an oval abrasion to the left lower leg and a small dark circular area that was possibly a bullet/shrapnel injury.*³¹¹⁰
- c. *Irregular shaped marks that were probably abrasions, on his right lower limbs with blackened areas.*³¹¹¹
- d. *I note damage to the clothing on the right upper arm with possible holes in the collar on either side and to the right of the top shirt button. I believe these could be related to bullet or shrapnel damage.*³¹¹²
- e. *There appears to be patchy red/black areas on the deceased's right forearm. These were probably abrasions and possible shrapnel/blast type injuries.*³¹¹³
- f. *The appearance of food residue in his left nostril, and also on inner left eyebrow, left eyelids and left frontal area of the hair.*³¹¹⁴
- g. *Blood can be seen, over the lower half of the face with a probable abrasion on the right cheek and the right side of the mouth.*³¹¹⁵
- h. *I also noted a possible missile type wound to the left side of the deceased's chin.*³¹¹⁶

2.2354 With regard to the cause of Husain Al-Muhammadawi's death, Dr Jerreat said this:³¹¹⁷

"I was asked to identify potentially life threatening injuries or injuries which might have been the cause of death. I noted injuries to the deceased's neck and trunk as well as lower limb injuries and would suggest that the cause of death might have been as a result of haemorrhage from multiple injuries...In my opinion the injuries I noted were likely to have occurred ante mortem."

2.2355 Ali Jaseeb Ghazi Al-Muhammadawi (witness 65), Husain Al-Muhammadawi's brother, provided both written and oral evidence to the Inquiry about the condition of his brother's body. In his written Inquiry statement, Ali Al-Muhammadawi described what he claimed to have seen when his brother's body was washed, in the following terms:³¹¹⁸

"The body was taken from the box and placed on a table. It was removed from the bag. This was the first time I saw all the injuries to my brother's body...It was still clothed at this stage. I saw the wound in the centre of his chest. It was in the middle upper part. I believe it was caused by a bullet. There was also an injury to his upper arm. I think it was his left arm. I cannot describe it in any detail and don't know what caused it. There was also an injury to his right knee. There were no injuries or blood on his face."

2.2356 Ali Al-Muhammadawi then went on to describe how he had been advised to leave the washing room before his brother's body was actually stripped or turned over.³¹¹⁹

³¹⁰⁹ Dr Jerreat (ASI018537) [7.2]

³¹¹⁰ Dr Jerreat (ASI018537) [7.3]

³¹¹¹ Dr Jerreat (ASI018537) [7.4]

³¹¹² Dr Jerreat (ASI018537) [7.5]

³¹¹³ Dr Jerreat (ASI018537) [7.6]

³¹¹⁴ Dr Jerreat (ASI018538) [7.7]

³¹¹⁵ Dr Jerreat (ASI018538) [7.8]

³¹¹⁶ Dr Jerreat (ASI018538) [7.9]

³¹¹⁷ Dr Jerreat (ASI018538) [8.2]

³¹¹⁸ Ali Jaseeb Ghazi Al-Muhammadawi (ASI007922) [42]

³¹¹⁹ Ali Jaseeb Ghazi Al-Muhammadawi (ASI007922) [43]

2.2357 Since Husain Al-Muhammadawi (deceased 22) was amongst the first group of 12 dead bodies to be photographed by Captain Rands at Camp Abu Naji on the evening of 14 May 2004, it is clear that his body was one of those that had been collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British troops that had been carried out by armed insurgents that day and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 23 – Ali Dawood Aleiwi Al-Malki

2.2358 Ali Dawood Aleiwi Al-Malki was designated “Deceased 23” by the Inquiry. His body was not recovered from the battlefield by British soldiers and thus does not appear in any of the photographs that were taken by Captain Rands at Camp Abu Naji on the evening of 14 May 2004. He is one of the eight deceased Iraqi men who undoubtedly died in the course of the Battle of Danny Boy, but whose dead bodies were not amongst those taken back to Camp Abu Naji that night. In Part 2, Chapter 2 of this Report, I have already set out the details of what is known about each of these 8 individuals. The details relating to Ali Dawood Aleiwi Al-Malki (deceased 23) are set out in paragraphs 2.117 to 2.124 of that Chapter.

2.2359 The death certificate Ali Al-Malki (deceased 23) lists one cause of death, as follows:³¹²⁰

“Entrance bullet wound to the front of the head with exit wound to the back of the head.”

2.2360 Since Ali Al-Malki’s body does not appear in any of the photographs taken by Captain Rands at Camp Abu Naji on the evening of 14 May 2004, Dr Jerreat was not asked to comment on his injuries or on the cause of his death.

2.2361 Ali Al-Malki’s brother, Alaa Dawood Aleiwi Al-Malki (witness 67), and his mother, Farha Jaaywel Saad Maliki (witness 68), both provided written evidence about the injuries that they claimed to have seen on Ali Al-Malki’s body. Alaa Al-Malki (witness 67) gave the following description of what he claimed to have seen, when he found his brother’s body at the Al Majar al’Kabir hospital:

“Firstly I observed a gunshot wound to the forehead from what I am certain to have been an injury from a close range shot. My military experience, which I have outlined above, enabled me to identify this shot wound as having been one obtained from a close range. The characteristics which enabled me to identify it as such were the black burn like colour around the injury. When someone shoots there is fire and smoke and when it is really close the fire and smoke leaves a mark on the individual. This is what I saw. Furthermore, a far range shot would have a small exit wound. The exit wound at the back of my brother’s head was very large and open.

I also examined my brother’s arms and torso. I found bruising on both the upper arms and the upper torso of my brother. It looked to me as though these bruises were the result of him having been stamped on by an individual wearing military boots. The shape type and size of these bruises are what led me to this decision. The bruises were blue and each one was around the size of a military boot. I cannot understand why the

³¹²⁰ MOD007761

troops of a modern country with all the modern equipment would chose [sic] to injure someone using their military shoes.”³¹²¹

2.2362 In her written Inquiry statement, Farha Maliki (witness 68) described what she claimed to have seen, when she found his body in the fields that evening:³¹²²

“When I looked at Ali’s body I could see the bullet wound and markings on his body. I also saw the injuries when his body was being washed. I saw a single bullet wound to the centre of his forehead and a much larger wound at the rear of his head. The entry wound on the forehead had a blue colouring around the edge of the wound. The area had turned dark, almost black. The flesh around the bullet wound looked burned. There was a combination of both dark and light blue bruising around the wound. I did not notice any other burn marks on his body or any other open wounds. I cannot recall any other bullet wounds to Ali’s body. My immediate and everlasting thought was that my son had been shot in the head at close range and then thrown by someone into the stream in which I found him. He had large areas of severe bruising all over his body. I noticed these more so on his upper right arm and chest area. His upper body was bruised and he had what appeared to be boot marks on his body. I believe that he was severely beaten, stepped on and kicked by the British soldiers. That is what I imagined must have happened to my son. I felt he had been kicked, tortured and shot dead at the hands of the British army.”

2.2363 The evidence, with regard to where Ali Al-Malki (deceased 23) had actually been killed and his dead body subsequently found, was somewhat inconsistent. In his written Inquiry statement Ali Al-Malki’s brother, Alaa Dawood Alweiwi Al-Malki (witness 67), said this:

“After my brother had been killed I understand that the British troops threw him into the water. I believe that they threw him in the water hoping that his body would not be discovered. The water he was thrown into was the water held in the canals that run throughout the agricultural fields. The ambulance found the body of my brother in these canals and transported him from there to the hospital.”³¹²³

2.2364 Alaa Al-Malki marked this location on the map, PIL000154. This location is clearly within the Northern Battlefield and, based on Alaa Al-Malki’s description of it as a canal, it seems very likely that it is a reference to Trench 2.

2.2365 However, in her written Inquiry statement, Farha Al-Maliki (witness 68) said that she had found Ali Al-Malki’s body in a small stream at the edge of the field.³¹²⁴ Although her description of the location was not inconsistent with Trench 2, her evidence that she had been the one who had found the body was in conflict that of her son, Alaa Al-Malki (witness 67), who said that an ambulance driver had found the body.

2.2366 In the event, I am satisfied that it is very likely that Ali Al-Malki’s dead body was found on the Northern Battlefield in or very near Trench 2 and that it was there that he had met his death that day. I have no doubt that Ali Al-Malki (deceased 23) was an active and willing participant in the ambush of British forces that had been carried by armed insurgents on 14 May 2004 and that he was killed by British fire in the resulting fighting. His dead body was recovered later that evening in the circumstances already described in the earlier part of this Report.³¹²⁵

³¹²¹ Alaa Dawood Alweiwi Al-Malki (PIL000142) [36] – [37]

³¹²² Farha Jaaywel Saad Maliki (ASI007644) [23]

³¹²³ Alaa Dawood Alweiwi Al-Malki (PIL000143) [38]

³¹²⁴ Farha Jaaywel Saad Al-Maliki (ASI007643-44) [22]

³¹²⁵ See paragraphs 2.94 – 2.101

Deceased 24 – Ahmed Kareem Al-Garry

2.2367 For the reasons explained in paragraphs 2.37 to 2.40 of Part 2, Chapter 2 of this Report, I am satisfied that the death of Ahmed Kareem Al-Garry (deceased 24) is not relevant to the Terms of Reference.

Deceased 25 – Nissan Rasem Jabbar Al-Abbadi Al-Ruhaimi

2.2368 Nissan Rasem Jabbar Al-Abbadi Al-Ruhaimi was given designated “Deceased 25” by the Inquiry. His body was not recovered from the battlefield by British soldiers and thus does not appear in any of the photographs that were taken by Captain Rands at Camp Abu Naji on the evening of 14 May 2004. He is one of the eight deceased Iraqi men who undoubtedly died in the course of the Battle of Danny Boy on 14 May 2004, but whose dead bodies were not amongst those taken back to Camp Abu Naji that night. In Part 2, Chapter 2 of this Report, I have already set out the details of what is known about each of these 8 individuals. The details relating to Nissan Rasem Jabbar Al-Abbadi Al-Ruhaimi (deceased 25) are set out in paragraphs 2.100 to 2.107 of that Chapter.

2.2369 The death certificate produced for Nissan Al-Ruhaimi (deceased 25) lists two causes of death, as follows:³¹²⁶

- a. *Bullet to the left side of the head.*
- b. *Bullet to the upper part of the abdomen.*

2.2370 Since Nissan Al-Ruhaimi’s body does not appear in any of the photographs taken by Captain Rands at Camp Abu Naji on 14 May 2004, Dr Jerreat was not asked to comment on his injuries or on the cause of his death.

2.2371 Bilal Rasem Jabbar Al-Ruhaimi Al-Ebadi (witness 71), Nissan Al-Ruhaimi’s brother, provided written evidence to the Inquiry about the injuries to his brother’s body that he claimed to have seen when he found him, as follows:³¹²⁷

“From my initial view of Neesan I could see that he had injuries to his face and to his chest, which appeared to be bullet wounds. He also had an injury to his thigh and a bullet wound on his right arm. He had a large injury at the back of his head. His body was not covered in blood as it had been in the water.”

2.2372 Later in his statement, Bilal Al-Ebadi described the injuries that he claimed to have seen when the doctor examined his brother’s body, as follows:³¹²⁸

“I noted that there were three, or four bullet injuries to the head, four bullet injuries to the chest, one bullet injury to his right arm and an injury to his thigh, although I don’t think that this was from a bullet.”

2.2373 Assad Mozan Khalait Al-Kaabi (witness 78) and Khuder Karim Ashoor Al-Sweady (witness 1) both said that they had been present in the area when Nissan Al-Ruhaimi’s body was found that night. Assad Al-Kaabi described the location at which the body was found as a ‘drainage

³¹²⁶ MOD007765

³¹²⁷ Bilal Rasem Jabbar Al-Ruhaimi Al-Ebadi (ASI007627) [48]

³¹²⁸ Bilal Rasem Jabbar Al-Ruhaimi Al-Ebadi (ASI007627-28) [52]

channel'.³¹²⁹ Khuder Al-Sweady described the location as a "*canal*".³¹³⁰ Both identified the location as being within the Northern Battlefield and for the reasons given in the earlier part of this Report, I am satisfied that the location which they both described was Trench 2.

2.2374 I have no doubt that Nissan Al-Ruhaimi was an active and willing participant in the ambush of British forces that had been carried by armed insurgents on 14 May 2004 and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was killed in or in the near vicinity of Trench 2 on the Northern Battlefield and that his body was recovered later from where he had fallen in the course of the fighting. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 26 – Muwafaq Abdulzahra Alijouhi Aluboudi

2.2375 For the reasons explained in paragraphs 2.37 to 2.40 of Part 2, Chapter 2 of this Report, I am satisfied that the death of Muwafaq Abdulzahra Alijouhi Aluboudi (deceased 26) is not relevant to the Terms of Reference.

Deceased 27 – Sa'd Abdullah Mohsen Katafa Al-Ma'loukhi

2.2376 Sa'd Abdullah Mohsen Katafa Al-Ma'loukhi was designated "*Deceased 27*" by the Inquiry. His body was recovered from the Southern Battlefield and was the tenth body photographed by Captain James Rands at Camp Abu Naji on 14 May 2004. He was thus given the designation "*KIA 10*" by Captain Rands. His body can be seen in five photographs taken by Captain Rands, bearing the references, ASI000482, ASI000483, ASI000484, ASI000485 and ASI000486.

2.2377 The death certificate produced for Sa'd Al-Ma'loukhi (deceased 27) lists one cause of death, as follows:³¹³¹

"Stopping of the heart's muscle due to a stroke caused by an accident."

2.2378 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Sa'd Al-Ma'loukhi's body:

- a. *The face is blood stained.*³¹³²
- b. *The clothing on the body is blood stained, mainly on the arms.*³¹³³
- c. *There is a small circular hole in the clothing on the right side upper thigh/pelvic area which is potentially a gunshot entrance wound.*³¹³⁴
- d. *The upper eyelids are bruised and there is blood in and drained from both nostrils.*³¹³⁵
- e. *Blood is apparent in the mouth and has also tracked over the right ear.*³¹³⁶

2.2379 With regard to the cause of Sa'd Al-Ma'loukhi's death, Dr Jerreat said this:³¹³⁷

³¹²⁹ Assad Mozan Khalait Al-Kaabi (ASI000924) [93]

³¹³⁰ Khudhur Karim Ashoor Al-Sweady (PIL000631) [42]

³¹³¹ MOD007773

³¹³² Dr Jerreat (ASI016647) [42.2]

³¹³³ Dr Jerreat (ASI016647) [42.3]

³¹³⁴ Dr Jerreat (ASI016647) [42.4]

³¹³⁵ Dr Jerreat (ASI016648) [42.5]

³¹³⁶ Dr Jerreat (ASI016648) [42.6]

³¹³⁷ Dr Jerreat (ASI016648) [43.3]

“A probable cause of death could be haemorrhage...which is likely to have been caused ante mortem.”

2.2380 Jabar Abdullah Mohsin Al-Ma'loukhi (witness 174), Sa'd Al-Ma'loukhi's brother, provided both written and oral evidence to the Inquiry about the condition of his brother's body. In his written Inquiry statement, Jabar Al-Ma'loukhi described what he claimed to have seen when preparing his brother's body for washing, as follows:³¹³⁸

“I saw that he was still wearing his nut coloured dish dash except that it was covered in blood. His face was also covered in blood and his skin looked very dark.

I also saw that had [sic] two bullet wounds that had killed him. The first was to his temple. I could see an entry wound which was a hole slightly larger than the circumference of a pencil. There was an exit wound at the rear of his head, slightly larger than the circumference of a bottle top. The second bullet wound was in his chest, on the right side and the hole was of the same dimensions. In my opinion he was shot at close range because of the size of the bullet entry and exit holes. Long range shots tend to cause a larger entry wound. There were no other injuries.”

2.2381 During his oral evidence to the Inquiry, Jabar Al-Ma'loukhi, suggested that the second bullet wound was in Sa'd Al-Ma'loukhi's left shoulder, rather than the right side of his chest.³¹³⁹

2.2382 Since Sa'd Al-Ma'loukhi (deceased 27) was amongst the first group of 12 dead bodies to be photographed by Captain Rands at Camp Abu Naji on the evening of 14 May 2004, it is clear that his body was one of those collected at and brought back from the Southern Battlefield. I have no doubt that he was an active and willing participant in the ambush of British forces that had been carried out by armed insurgents that day and that he was killed by British fire in the resulting fighting. In my view, it is likely that he was one of the armed insurgents who were actually killed either in the vicinity of the derelict buildings or in or near the Southern Tank Ditch and that his dead body was collected from where he had fallen. On the available evidence, it is not possible to be more precise as to where he was actually killed that day.

Deceased 28 – Muhammad Nasser Al-Doughaan

2.2383 Muhammad Nasser Al-Doughaan was designated “Deceased 28” by the Inquiry. His body was recovered from the Northern Battlefield and was the eighteenth body photographed by Captain James Rands at Camp Abu Naji on the evening of 14 May 2004. He was thus given the designation “KIA 18” by Captain Rands. His body can be seen in three photographs taken by Captain Rands, bearing the references, ASI000504, ASI000505 and ASI000506.

2.2384 The death certificate produced for Muhammad Al-Doughaan (deceased 28) lists one cause of death:³¹⁴⁰

Entrance and exit bullet wound to the head.

2.2385 After considering the material that had been made available to him, Dr Peter Jerreat made the following observations about the apparent condition of Muhammad Al-Doughaan's body:

a. *The left arm appears to be distorted.*³¹⁴¹

³¹³⁸ Jabar Abdullah Mohsin Al-Ma'loukhi (ASI008508) [29] – [30]

³¹³⁹ Jabar Abdullah Mohsin Al-Ma'loukhi [37/15]

³¹⁴⁰ MOD007775

³¹⁴¹ Dr Jerreat (ASI016683) [74.2]

- b. *There are blood stains visible on the clothing.*³¹⁴²
- c. *Torn areas to right leg clothing can be seen and a wound visible near to the right knee.*³¹⁴³
- d. *On the left hand, blood can be seen.*³¹⁴⁴
- e. *Blood can be seen on the face, brain matter is visible in the hair, on the central forehead and close to the right eye. There is possible distortion to the nasal bridge.*³¹⁴⁵
- f. *Potential wounds are apparent to the upper mid area of the forehead, right eye and to the left side of the mouth.*³¹⁴⁶
- g. *There is blood on the ground behind the head and on the right ear.*³¹⁴⁷

2.2386 With regard to the cause of Muhammad Al-Doughaan's death, Dr Jerreat said this:³¹⁴⁸

"A probable cause of death could be haemorrhage and head injuries...which is likely to have been caused ante mortem."

2.2387 In an earlier part of this Report, I set out the evidence of Ibrahim Gattan Hasan Al-Ismaeeli (detainee 774) about what he claimed were the circumstances of Muhammad Al-Doughaan's death. Nasser Ali Husain Al-Doughaan (witness 77), Muhammad Al-Doughaan's father, also provided both written and oral evidence to the Inquiry about the condition of his son's body. In his written Inquiry statement, Nasser Al-Doughaan gave the following description of the injuries that he claimed to have seen on his son's body:³¹⁴⁹

"When I saw Mohammed's body I noticed the following injuries on his face. He had a bullet wound on his forehead and on his cheek. He had a large exit wound on the rear of his head. His nose was broken. His face was twisted and swollen and covered in dust and blood. He has [sic] a bullet wound on his right cheek with an exit wound on the top of his head. He was covered in blood. I did not see his body so I cannot state if there were any other injuries to him."

2.2388 However, when he came to give his oral evidence to the Inquiry, Nasser Al-Doughaan gave a significantly different account of his son's injuries, as follows:³¹⁵⁰

"There were injuries to the mouth area. The eyes were missing. There were no eyes. The teeth were not there, as if smashed, and the face was enlarged. It's like there is a wide area in it. A wide open area. And the eyes were not recognisable, like removed."

2.2389 Nasser Al-Doughaan went on to maintain that he had actually seen these injuries on his son's body and that he had not been confused or influenced by what he had seen or had been told about the injuries sustained by Abbas Mahood Jheijeh Dawood Al-Mozani (deceased 20).³¹⁵¹

2.2390 Since the body of Muhammad Al-Doughaan (deceased 28) was amongst the last group of dead bodies to arrive at Camp Abu Naji on 14 May 2004 and be photographed by Captain

³¹⁴² Dr Jerreat (ASI016683) [74.3]

³¹⁴³ Dr Jerreat (ASI016683) [74.4]

³¹⁴⁴ Dr Jerreat (ASI016683) [74.5]

³¹⁴⁵ Dr Jerreat (ASI016684) [74.6]

³¹⁴⁶ Dr Jerreat (ASI016684) [74.7]

³¹⁴⁷ Dr Jerreat (ASI016684) [74.8]

³¹⁴⁸ Dr Jerreat (ASI016684) [75.3]

³¹⁴⁹ Nasser Ali Husain Al-Doughaan (ASI007777) [18]

³¹⁵⁰ Nasser Ali Husain Al-Doughaan [38/74]

³¹⁵¹ Nasser Ali Husain Al-Doughaan [38/75-77]

Rands that evening, it is clear that he was killed during the Northern Battle. I have no doubt that Muhammad Al-Doughaan was an active and willing participant in the ambush of British forces that had been carried out by armed insurgents on 14 May 2004 and that he was killed by British fire in the resulting fighting. As I have already explained in an earlier part of this Report,³¹⁵² I consider it very likely that Muhammad Al-Doughaan was actually killed by WO2 David Falconer during “*Contact 3*”, in the course of the westwards “*sweep*” of Trench 1 that he and Lance Corporal Woods carried out late that afternoon. The dead body of Muhammad Al-Doughaan (deceased 28) was then collected from where he had fallen, which was probably about 150 metres from the first insurgent position in Trench 1 to have been assaulted and captured by the British soldiers during the Northern Battle.

Deceased 29 – Rahma Abdelkareem Al-Hashimi and Deceased 30 – Muhammad Abdelhussain Al-Jeezani

2.2391 The general circumstances relating to the deaths of these two individuals are set out in paragraphs 2.42 to 2.49 of Part 2, Chapter 2 of this Report and do not need to be repeated here. It had thus become apparent, at a very early stage in the work of the Inquiry, that the circumstances of their deaths were entirely outside the Inquiry’s Terms of Reference, because neither of these two individuals could possibly have been subjected to any form of ill-treatment or unlawfully killed at Camp Abu Naji on 14/15 May 2004.³¹⁵³ Accordingly, it seems to me to be unnecessary to go into details of their injuries and/or the circumstances of their deaths in any more detail than already appears in Part 2, Chapter 2 of this Report.

General observations with regard to the injuries on the bodies of the deceased

2.2392 I have summarised my reasons for having reached the following important and firm conclusions of fact, namely that none of the deceased Iraqi men were unlawfully killed at Camp Abu Naji on 14/15 May 2004, that none were tortured there and that none of the dead bodies were mutilated or deliberately mistreated by the British military at any time after they had been found and collected on the battlefield and before being handed over to the local Iraqi community on 15 May 2004. However, it is clear that a significant amount of the evidence, about the condition of the dead bodies, the nature of the injuries said to have been found upon them and the alleged causes of their deaths, is in apparent conflict with those conclusions of fact. This conflicting evidence is almost entirely to be found in the contents of the death certificates, the evidence of those who completed and issued the death certificates and the evidence of families and friends of the deceased. In the paragraphs that follow, I will summarise this conflicting evidence and make some observations about how that evidence has come about.

The death certificates

2.2393 There are entries in the death certificates for some of the Iraqi deceased that are plainly inaccurate and untrue. Some of the death certificates contain observations to the effect that the body of the deceased showed signs of torture, beatings and mutilation. As I have already made abundantly clear, none of the Iraqi deceased with whom this Inquiry is concerned had been tortured, beaten or mutilated. So how did inaccuracies of this nature come to appear in the death certificates?

³¹⁵² See paragraphs 2.938 – 2.950

³¹⁵³ See Figure 1; Part 2, Chapter 1 paragraph 1.15

2.2394 I have, for present purposes, focused only on the circumstances in which the death certificates for the 20 bodies taken back to Camp Abu Naji on 14 May 2004 were completed and issued, since these all clearly fall within the Inquiry's Terms of Reference.

2.2395 In an earlier part of this Report, I have described the difficult, hurried and somewhat chaotic circumstances in which the post mortem examinations of the bodies recovered from Camp Abu Naji actually took place.³¹⁵⁴ In this part of my Report, I will endeavour to provide a little more detail about how they were actually carried out.

2.2396 Each of the death certificates in question bears a unique identification number. In May 2004, a book of death certificate forms was kept at the hospital in Al Majar al'Kabir and the forms within the book were numbered sequentially.³¹⁵⁵ As a result, it is possible to identify the order in which the death certificates for the bodies, recovered from Camp Abu Naji on 15 May 2004, were completed and issued.

2.2397 Based on the unique reference numbers on their death certificates, it appears that death certificates for the following fifteen bodies were completed and issued first, after the bodies in question had been recovered from Camp Abu Naji on 15 May 2004:

Sadeq Al-Majidi (deceased 12) – 978157.

Hassan Al-Aosi (deceased 9) – 978158.

Muhammad Al-Doughaan (deceased 28) – 978159.

Haydar Al-Malki (deceased 15) – 978160.

Kazem Al-Baltani (deceased 11) – 978161.

Hamza Al-Isma'ili (deceased 17) – 978162.

Ali Al-Mozani (deceased 8) – 978163.

Ali Al-Jamindari (deceased 4) – 978164.

Ahmad Al-Hilifi (deceased 1) – 978165.

Adnan Al-Mozani (deceased 16) – 978166.

Husain Al-Muhammadawi (deceased 22) – 978167.

Haydar Al-Lami (deceased 2) – 978168.

Hameed Al-Sweady (deceased 3) – 978169.

Abbas Atti Al-Mozani (deceased 5) – 978170.

Adel Al-Mozani (deceased 18) – 978171.

2.2398 Doctor Adel Salih Majeed Al-Shawi (witness 81) was a paediatrician and the Director of the Al Majar al'Kabir hospital in May 2004. In his written Inquiry statement, Doctor Adel Al-Shawi

³¹⁵⁴ See paragraph 2.2092 onwards

³¹⁵⁵ Adel Salih Majeed Al-Shawi [53/45-47]

gave the following account of the procedure that was followed when this group of 15 bodies had been examined at the Al Majar al'Kabir hospital on 15 May 2004:

*"We had each body brought into the room one by one. We removed each body from the bag completely and placed it on one of the beds. We opened the clothes to check injuries underneath, removing them where we felt necessary. I inspected the bodies and I let Dr Jafar make a note of my observations. I would say an injury and he would write it down. He wrote directly onto the death certificates. He would also point out injuries to me and we would discuss them. If he noticed anything then he would tell me, we would debate it and then my conclusion would be noted. He would not note anything on his own. He would only note my conclusions."*³¹⁵⁶

2.2399 In May 2004, Doctor Jafar Nasser Hussain Al-Bahadli (witness 82) was the Manager of the 2nd Amarah Sector for Primary Healthcare, with an office close to the Al Majar al'Kabir hospital. He was also a paediatrician. In his written Inquiry statement, Doctor Jafar Al-Bahadli's description of the procedure followed in respect of the 15 bodies was slightly different, thus:

"The medical staff opened the bags and pulled back the clothing in order to assist with identification and assessment of the injuries. They would point out injuries to me and I would look at these and make a note of them. The lighting in this room was good. We would look for the injuries and then check to establish if it was the reason for death. Again the clothing was moved not totally removed, the bodies would be turned over to see if there were injuries on the back.

I would look at the injuries however it is possible that I may have missed some injuries. I made notes including the name, on a small piece of paper in the Doctors room... sometimes I wrote details for 2 bodies on one piece of paper, these were then transferred to the death certificate – I would put a big 'X' when I had used that information to ensure that I did not mix up the details. I would throw the small piece of paper away when it was full. I am satisfied I dealt with all the bodies that were brought in that day.

*Dr Adel [Al-Shawi] was with me some of the time and would have looked at injuries but he was also involved with hospital issues involving families and Police."*³¹⁵⁷

2.2400 It is not possible to say which of these two accounts more accurately reflects the procedure that was actually followed in relation to these 15 dead bodies on 15 May 2004. However, it is clear that both Dr Al-Shawi and Dr Al Bahadli contributed to the contents of the death certificates and that each of the certificates was actually signed by Dr Al-Shawi.

2.2401 Dr Al-Shawi³¹⁵⁸ and Dr Al Bahadli³¹⁵⁹ both told the Inquiry that they had endeavoured to identify only those injuries that had caused the death of the deceased man in question. However, in a number of cases, more than one cause of death was listed. During his oral evidence to the Inquiry, Dr Al-Shawi explained that if he saw marks of torture, he had also added that observation to the death certificates.³¹⁶⁰

2.2402 In his written Inquiry statement, Dr Al-Bahadli had been emphatic in stating that he would not have issued a death certificate for any deceased person without having first conducted an

³¹⁵⁶ Adel Salih Majeed Al-Shawi (PIL000216) [79]

³¹⁵⁷ Jafar Nasser Hussain Al Bahadli (ASI008521-22) [66] – [68]

³¹⁵⁸ Adel Salih Majeed Al-Shawi [53/73-74]

³¹⁵⁹ Jafar Nasser Hussain Al Bahadli [25/46-47]

³¹⁶⁰ Adel Salih Majeed Al-Shawi [53/73-74]

examination of the body in question.³¹⁶¹ However, as I indicate in the paragraphs that follow, there was evidence from some of the relatives of the deceased that appeared to call that assertion into question.

2.2403 In his oral evidence to the Inquiry, Kamil Mowat Mohammed Al-Mozani (witness 30) said that the dead body of his brother, Ali Mawat Muhammad Ghudheib Al-Mozani's (deceased 8), had not been taken to the Al Majar al'Kabir hospital at any stage.³¹⁶² Similarly, when Qassim Ghelan Neema Sahn Al-Majidi (witness 182) described how he had dealt with the body of his nephew, Sadeq Jasseb Ghaylan Ne'ma Sahn Al-Majidi's (deceased 12), he made no mention of the body having been taken to the Al Majar al'Kabir hospital.³¹⁶³

2.2404 In his written Inquiry statement, Yousef Ouda Baday (witness 41) said that the body of his brother, Kazem Ouda Baday Al-Baltani (deceased 11), had not been examined at Al Majar al'Kabir hospital, but that he had nevertheless been issued with a death certificate at the hospital.³¹⁶⁴ However, when he gave his oral evidence to the Inquiry, Yousef Ouda Baday said that he did not know whether Kazem Al-Baltani's body had been examined at Al Majar al'Kabir hospital and that he could not remember when the death certificate had actually been issued.³¹⁶⁵

2.2405 Finally, in his written Inquiry statement Ali Jaseeb Ghazi Al-Muhammadawi (witness 65) said this:

*"I have been asked if I saw doctors issuing death certificates without looking at the bodies. I can only say that some people just put the bodies into cars and the doctors appeared to be issuing death certificates without looking at the bodies. On other occasions doctors would examine bodies and then issue a death certificate."*³¹⁶⁶

2.2406 In the same written Inquiry statement, Ali Al-Muhammadawi (witness 65) went on to say that the death certificate for his brother, Husain Jasseb Ghazi Al-Muhammadawi (deceased 22), had been produced without his body having been examined.³¹⁶⁷ However, when he gave his oral evidence to the Inquiry, Ali Al-Muhammadawi (witness 65) said that he could not recall how he came to receive the death certificate³¹⁶⁸ and he had been unable to recall whether his brother's body had been examined by a doctor at any stage.³¹⁶⁹

2.2407 It is clear from all the evidence that the overall circumstances in which the death certificates for these dead bodies were completed and issued at Al Majar al'Kabir hospital on 15 May 2004 were highly charged emotionally and very confused. Although it is not possible to be categorical about it, I think that there is a possibility that some of the death certificates were actually completed and issued without the body having been examined by either of the doctors present that day.

2.2408 However, Dr Al-Bahadli and Dr Al-Shawi were both in agreement about the fact that their examinations did not constitute a full and complete autopsy of the bodies in question in any

³¹⁶¹ Jafar Nasser Hussain Al Bahadli (PIL001373) [5]

³¹⁶² Kamil Mowat Mohammed Al-Mozani [30/64]

³¹⁶³ Qassim Ghelan Neema Sahn Al-Majidi (ASI008810-11) [138] – [144]

³¹⁶⁴ Yousef Ouda Baday (ASI007864) [37]

³¹⁶⁵ Yousef Ouda Baday [32/14-15]

³¹⁶⁶ Ali Jaseeb Ghazi Al-Muhammadawi (ASI007921) [36]

³¹⁶⁷ Ali Jaseeb Ghazi Al-Muhammadawi (ASI007921-22) [39]

³¹⁶⁸ Ali Jaseeb Ghazi Al-Muhammadawi [38/9]

³¹⁶⁹ Ali Jaseeb Ghazi Al-Muhammadawi [38/25]; [38/44]

event. When he gave his oral evidence to the Inquiry, Dr Al-Shawi described the time taken in carrying out the examinations, in the following terms:

“It depends on the case...If it was a matter of one gunshot to the head, where I could locate the entry wound and the exit wound, that examination would take me ten minutes and I would do about examining the whole – the rest of the body really quickly, while when there were marks of torture, we would take more time. So that depended on the time needed by each case.”³¹⁷⁰

2.2409 In their oral evidence to the Inquiry, both Dr Al-Shawi³¹⁷¹ and Dr Al-Bahadli³¹⁷² readily accepted that they were not forensic pathologists. Nevertheless, Dr Al-Shawi was at pains to stress that he had approached the examination of the bodies in a scientific manner.³¹⁷³

2.2410 During the course of his oral evidence to the Inquiry, Dr Al-Shawi said that, even before he had examined the dead bodies that day, he had already heard evidence to the effect that the British had not been ambushed, but had opened fire on a peaceful demonstration in reprisal for the killing of the six Royal Military Policemen who had been killed in Al Majar al’Kabir the previous year.³¹⁷⁴ Whilst listening to this part of his evidence, it was very apparent to me that Dr Al-Shawi firmly believed that to have been the case, both at the time and even now. The general tone of his evidence is clear from this representative part of his oral testimony:

“Information reached the British – and I am sure about that – through agents. That is why the British forces got prepared, ready and went there in big numbers. And that is why the demonstrators were killed and it was a deliberate killing. And the strongest evidence for me is that they were taken to Camp Abu Naji. Specifically they had names and they wanted to see whether they were killed or not. They wanted to kill specific people. ...”³¹⁷⁵

2.2411 Unsurprisingly, in their written closing submissions, those representing the majority of the military witnesses suggested that Dr Al-Shawi had not approached his task of examining the dead bodies in question with an open mind.³¹⁷⁶ I am satisfied that this criticism is well founded. I have no doubt that, at the time he examined the dead bodies on 15 May 2004 and issued the death certificates in question, Dr Al-Shawi was utterly convinced that they were the innocent victims of an act of reprisal and vengeance by the British for the murder of the 6 Royal Military Policemen in Al Majar al’Kabir the year before. It is also clear that he remains of that view today. I have no doubt that this attitude on his part significantly affected the way in which he recorded the injuries that he observed on the bodies of the deceased and it seriously distorted his professional judgment and his objectivity.

2.2412 Both Dr Al-Shawi and Dr Al-Bahadli told me that they did not remove any clothes from the bodies, but merely moved the garments out of the way in order to inspect the injuries. Accordingly, at no stage did they see any of the bodies completely naked.³¹⁷⁷

³¹⁷⁰ Adel Salih Majeed Al-Shawi [53/76]; See also Jafar Nasser Hussain Al Bahadli [25/46-47]

³¹⁷¹ Adel Salih Majeed Al-Shawi [54/3]

³¹⁷² Jafar Nasser Hussain Al Bahadli [25/35-36]

³¹⁷³ Adel Salih Majeed Al-Shawi [54/48]

³¹⁷⁴ Adel Salih Majeed Al-Shawi [53/87-90]

³¹⁷⁵ Adel Salih Majeed Al-Shawi [53/89]

³¹⁷⁶ TSol Closing Submissions [671(i)]

³¹⁷⁷ Adel Salih Majeed Al-Shawi [53/77]; Jafar Nasser Hussain Al Bahadli [25/74]

2.2413 During his oral evidence to the Inquiry, Dr Al-Shawi was asked what type of injuries he had seen that had caused him to record “signs of torture” on some of the death certificates. In response, he said this:

“Beating, cuts, bruises, genitals being damaged; so disfiguring of the body.”³¹⁷⁸

2.2414 When Dr Al-Shawi was then asked why he had considered a bruise or a cut to have been evidence of torture, he replied as follows:

“Because the kind of beating and damage to the bodies were not that the person had fallen from a high rise or so. It was obvious that the body was hit by a soldier from a close distance or, in other cases, the genitals were deliberately cut.”³¹⁷⁹

2.2415 When Dr Al-Shawi was pressed to explain how these injuries showed that the person in question had been tortured, he changed his position and said that he had not taken the cuts and bruises into consideration when he recorded that there were marks of torture. Instead, he said that the only signs of torture had been the removal of an eye and the damage to the genitals.³¹⁸⁰

2.2416 However, it is clear that this significant adjustment in Dr Al-Shawi’s evidence is completely at odds with the documentary evidence. The death certificates relating to two of the dead bodies, namely those of Ali Al-Jamindari (deceased 4) and Abbas Al-Mozani (deceased 20), recorded that an eye had been removed. The death certificate for Haydar Al-Lami (deceased 2) recorded that his genitals had been mutilated and his penis cut. Importantly, there is no reference to torture on any of those three death certificates. Torture is recorded in some of the other certificates, namely those of Ahmed Al-Hilifi (deceased 1), Hameed Al-Sweady (deceased 3) and Ali Al-Mozani (deceased 8). However, in none of those three certificates was there any mention of mutilation of the genitals or the removal of an eye. Accordingly, Dr Al-Shawi’s claim that the signs of torture he had seen on the dead bodies and thought fit to include on the death certificates, had been the mutilation of genitals and the removal of an eye, was obviously completely wrong.

2.2417 When Dr Al-Bahadli gave his oral evidence to the Inquiry, he explained that the “*signs of torture*”, on the body of Hameed Al-Sweady (deceased 3), were the horizontal red lines on the back of his body.³¹⁸¹ Obviously these red lines could have been caused in various ways, other than by torture, just as the cuts and bruises to which Dr Al-Shawi initially referred in his oral evidence could have been. Nevertheless, both Dr Al-Shawi and Dr Al-Bahadli completed and issued death certificates that recorded that some of the bodies in question had showed the signs of torture.

2.2418 In their closing written submissions, those representing the Iraqi Core Participants sought a finding that these death certificates reflected an honest attempt by Dr Al-Shawi and Dr Al-Bahadli to record injuries to the deceased.³¹⁸² The submissions then continued, as follows:

“Given that Dr Al-Shawi was rightly concerned about the need for there to be a record of the state of the bodies, and given that his attempt to ensure that the full forensic examination that was conducted at Al-Sadr hospital failed for reasons outside of his

³¹⁷⁸ Adel Salih Majeed Al-Shawi [53/80]

³¹⁷⁹ Adel Salih Majeed Al-Shawi [53/80-81]

³¹⁸⁰ Adel Salih Majeed Al-Shawi [53/81]

³¹⁸¹ Jafar Nasser Hussain Al Bahadli [25/85-86]

³¹⁸² ICP Closing Submissions [988b]

*control, it is not surprising that he thought it appropriate to record what he considered to be marks of torture.*³¹⁸³

2.2419 However, I cannot accept this interpretation of what took place. Nor do I accept the characterisation of the language used as “inexact”.³¹⁸⁴ Furthermore, I do not believe that the fact that neither Dr Al-Bahadli nor Dr Al-Shawi was a qualified forensic pathologist provides an adequate explanation or justification for the inclusion of these inaccurate and/or false records of torture in the death certificates. Based on all the evidence that I have seen, heard and read, I have come to the firm conclusion that both doctors were so caught up in the emotional turmoil and hostility to the British military then prevailing, that they both failed to apply the professionally rigorous and objective judgment that they should have done. Instead, they recklessly and irresponsibly recorded findings of torture on some of the death certificates,³¹⁸⁵ without any proper or objective scientific basis for having done so.

2.2420 In the event, I have no doubt that the references to torture and mutilation on the death certificates made a significant contribution to the perpetuation of the false allegations of torture and unlawful killing that persist to this day and which gave rise to this Inquiry. In my view, by their irresponsible and reckless behaviour, as detailed above, both Dr Al-Shawi and Dr Al-Bahadli must bear some responsibility for this state of affairs.

2.2421 I have also had the opportunity to carefully consider the death certificates that were produced for the other five men whose bodies were recovered from Camp Abu Naji on 15 May 2004, namely:

Husain Al-A'mshani (deceased 6) – 978172

Jassem Al-A'mshani (deceased 7) – 978173

Tareq Al-Khalifa (deceased 14) – 978077

Abbas Mahood Al-Mozani (deceased 20) – 978078

Sa'd Al-Ma'loukhi (deceased 27) – 748593

2.2422 Based on the evidence that I have heard, seen and read, I am satisfied that these five death certificates were produced at a different time from the fifteen death certificates to which I have already referred.

2.2423 The death certificates for Husain Al-A'mshani (deceased 6) and Jassem Al-A'mshani (deceased 7) were both dated 15 May 2004 and signed by Doctor Hassan Jabbar Kabyan. Both Doctor Jafar Nasser Hussain Al-Bahadli (witness 82) and Doctor Adel Salih Majeed Al-Shawi (witness 81) denied any involvement in the production of these death certificates³¹⁸⁶ and it is the Inquiry's understanding that Doctor Hassan Jabbar Kabyan subsequently died.³¹⁸⁷ Accordingly, it was not possible to obtain his evidence about the circumstances in which he came to complete and issue these particular death certificates.

³¹⁸³ ICP Closing Submissions [998]

³¹⁸⁴ ICP Closing Submissions [1023]; [1026]

³¹⁸⁵ Specifically the death certificates produced for Haydar Al-Lami (deceased 2), Hameed Al-Sweady (deceased 3) and Ali Al-Mozani (deceased 8)

³¹⁸⁶ Jafar Nasser Hussain Al Bahadli (ASI008525) [100] – [101]; Adel Salih Majeed Al-Shawi (PIL000220) [90(f) – (g)]

³¹⁸⁷ Salim Malih Olewi Al-Maliki (ASI007829) [34]

2.2424 The death certificates for Tareq Al-Khalifa (deceased 14) and Abbas Mahood Al-Mozani (deceased 20) are both dated 20 May 2004. The death certificate for Tareq Al-Khalifa (deceased 14) was signed by Doctor Adel Salih Majeed Al-Shawi (witness 81) and the death certificate for Abbas Mahood Al-Mozani (deceased 20) was signed by Doctor Mohsin Jabbar.

2.2425 I heard a considerable amount of evidence to the effect that these two bodies had become mixed up in the days following 14 May 2004. It is not necessary for me to go into great detail about that confusion in this Report. It suffices to say that it was as a result of this confusion that these two death certificates were not completed and issued until 20 May 2004.

2.2426 With regard to the production of the death certificate for Tareq Al-Khalifa (deceased 14), Doctor Adel Al-Shawi said this:

*"I examined the body in the same way that I had done before, although Dr Jafr did not assist me on this occasion. I noted the injuries that are recorded on his death certificate and returned the body to the family with one copy of the certificate."*³¹⁸⁸

2.2427 I make no specific criticism of Doctor Adel Al-Shawi for the manner in which he examined this body or issued/produced this particular death certificate.

2.2428 In his written Inquiry statement, Doctor Adel Al-Shawi explained that the reference to Doctor Mohsin Jabbar on the death certificate for Abbas Mahood Al-Mozani (deceased 20) was a mistake and it had actually been completed by Doctor Hassan Jabbar.³¹⁸⁹ Again, as a result of the subsequent death of Doctor Hassan Jabbar, it has not been possible to obtain his evidence about the circumstances in which he came to complete and issue this particular death certificate.

2.2429 The death certificate for Sa'd Al-Ma'loukhi (deceased 27) was, in many respects, an anomaly. Although dated 15 May 2004, it was signed by a Doctor Bashar Abbas, with his address listed as the Al-Sadr hospital in Al-Amarah.³¹⁹⁰ The cause of death was listed as *"stopping of the heart's muscle due to a stroke caused by an accident."*³¹⁹¹

2.2430 In his oral evidence to the Inquiry, Jabar Abdullah Mohsin Al-Ma'loukhi (witness 174) was asked to comment on his brother's death certificate and he said this:

"Q. Do you know why it says that on the death certificate?"

A. The doctor is wrong. He's mistaken.

Q. Do you know how it came about that this death certificate was issued in relation to your brother?"

A. A confusion. Caused by a confusion. The physician or the doctor was confused and he wrote this.

Q. When you saw this, about a year ago, did you do anything about it?"

A. I filed a case, a lawsuit against the doctor.

Q. What happened as a result of that case?"

³¹⁸⁸ Adel Salih Majeed Al-Shawi (PIL000219) [89]

³¹⁸⁹ Adel Salih Majeed Al-Shawi (PIL000221) [90(t)]

³¹⁹⁰ MOD007773

³¹⁹¹ Ibid

A. I filed a case against him, but no result until now.

Q. The case that you filed, were you trying to get the death certificate changed?

A. Yes, to change the death certificate.

Q. Did they refuse to change the death certificate?

A. I filed the case and I sent the document to Baghdad to the supreme or higher studies, and the letter from the judge of the court of Majar Al-Kabir, and the answer, the reply from the higher studies was that the doctor is now outside Iraq.

Q. I see. And do you know the name of the doctor that they said is outside Iraq?

A. He is Dr Bashar Abbas.”

2.2431 Although the Inquiry’s agent was able to make contact with Dr Bashar Abbas, he refused to cooperate or make any statement about the matter, because he was being sued by the deceased’s family. Accordingly, having regard to the obvious confusion with regard to the contents of this death certificate and the inability of the Inquiry to obtain any information from Dr Bashar Abbas himself, it is not possible to express any conclusion with regard to the circumstances in which this particular death certificate came to be completed and issued or with regard to the examination carried out on Sa’d Al-Ma’loukhi’s body in order to produce it.

The evidence of the relatives

2.2432 The Inquiry received a considerable amount of written and oral evidence from the relatives of the young men killed on 14 May 2004, about the injuries that had been sustained by their loved-ones. Much of that evidence is summarised in the preceding paragraphs of this part of the Report. Many of those witnesses described how they believed that their loved-ones had been unlawfully killed, tortured prior to death and their bodies mutilated after death. Although I have found those beliefs to be unfounded, I have little doubt that, for the most part, they were sincerely and honestly held, except in those instances where I have already made it clear that I have no doubt that the relative in question deliberately lied. Having regard to the trouble to which those witnesses went in order to give their evidence to this Inquiry and the undoubted extent to which those beliefs must have exacerbated their grief, I consider that it would be inappropriate to conclude this part of the Report, without briefly identifying those matters which I consider mainly contributed to those erroneous beliefs.

2.2433 For the most part, I am satisfied that the relatives gave honest and accurate evidence about the specific injuries that they actually observed on the dead bodies of their loved-ones. On occasions, evidence of some of those witnesses was at odds with what can be seen in the photographs taken by Captain Rands or was in conflict with the evidence of other eye witnesses. On other occasions, I felt that the evidence of some of the witnesses tended towards exaggeration. Nonetheless, I do not consider that it is necessary to go into the details of these shortcomings.

2.2434 However, in coming to the conclusions that they did as to the causes of the injuries they had observed, it is clear that many of the relatives had given insufficient consideration to and/or were totally unaware of the catastrophic effect that modern military munitions can have on the human body.

2.2435 In his Judicial Review statement, Brigadier Matthew Maer gave the following helpful and instructive evidence about the effect of modern weapons on the human body:

*"The effects of modern weaponry on the human body can be grotesque. A rifle bullet is designed to dump 14 kilojoules of energy into the human body, then tumble on impact, shredding internal organs, while the shock wave of impact causes "cavitation", ripping apart vital arteries, soft tissue and muscle. Injuries from bursts of machine gun fire, shrapnel and heavy weaponry are much worse than even this. Shrapnel is designed to form as razor sharp pieces of metal, specifically to cut through body parts."*³¹⁹²

2.2436 It seems to me very likely that many of the relatives who gave evidence to the Inquiry would have had little or no knowledge of these catastrophic effects. It seems that some of those relatives attributed these effects to torture and mutilation of the bodies rather than to their real cause, namely the highly destructive effect of the weaponry used on the battlefield by British troops.

2.2437 Furthermore, it was also clear that a number of the Iraqi witnesses had no real understanding of the effects of shrapnel. A number of the relatives described how their loved-ones had showed signs of having been cut, including mutilation of genitalia. These cuts were often cited as evidence that their relatives had been unlawfully killed or mutilated. In fact, I am satisfied that these various cutting injuries were, in fact, the effects of shrapnel striking the body. As Dr Peter Jerreat explained, during the course of his oral evidence to the Inquiry:

'Q. I think we saw on two of the videos a relatively – certainly to my eye – sharp line on the edge of the flesh.

A. Yes.

Q. Does that mean that it has been cut or not?

*A. Not necessarily. It could have been cut, it could be an incised area, but it also could be sharp material coming into contact from shrapnel. Obviously when we're talking about shrapnel, we're talking about pieces of literally anything, rubble, metallic pieces or anything that is in the associated area, so they can give the appearance of a sharp edge.'*³¹⁹³

2.2438 Finally, as I have already pointed out, most if not all of the Iraqi witnesses could not understand what possible reason there could have been for collecting dead bodies from the battlefield and then taking them back to Camp Abu Naji, before handing them over to the Iraqi community the following morning. This inevitably led to the belief that the dead Iraqi men had originally been captured alive and had subsequently been unlawfully killed. Rumours to that effect became widespread in the locality very rapidly and, combined with a lack of understanding about the effect of modern weaponry and shrapnel, would have had a significant impact on how the injuries on the dead bodies were then viewed and interpreted by their grief-stricken families.

³¹⁹² Brigadier Maer (MOD022537) [42]

³¹⁹³ Dr Jerreat [56/125]